

## School Board

### Powers and Duties of the School Board; Indemnification

The major powers and duties of the School Board include, but are not limited to:

1. Organizing the Board after each consolidated election by electing officers and establishing its regular meeting schedule and, thereafter, taking action during lawfully called meetings to faithfully fulfill the Board's responsibilities in accordance with State and federal law. <sup>1</sup>
2. Formulating, adopting, and modifying Board policies, at its sole discretion, subject only to mandatory collective bargaining agreements and State and federal law. <sup>2</sup>
3. Employing a Superintendent and other personnel, making employment decisions, dismissing personnel, including determining whether an employee has willfully or negligently failed to report an instance of suspected child abuse or neglect as required by 325 ILCS 5/,<sup>3</sup> and establishing an equal employment opportunity policy that prohibits unlawful discrimination. <sup>4</sup>
4. Directing, through policy, the Superintendent, in his or her charge of the District's administration. <sup>5</sup>
5. Approving the annual budget, tax levies, major expenditures, payment of obligations, annual audit, and other aspects of the District's financial operation; and making available a statement of financial affairs as provided in State law. <sup>6</sup>

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>1</sup> State law controls this policy's content. School board powers listed in the School Code are not exclusive, meaning that a board may exercise "all other powers not inconsistent with this Act that may be requisite or proper for the maintenance, operation, and development of any school or schools under the jurisdiction of the board." 105 ILCS 5/10-20. This policy's intent is to list the *major* statutory powers and duties – not all of them. See also 105 ILCS 5/10-20.5 ([rules](#)) and 5/10-21 ([additional duties of board](#)).

For power/duty #1, see 105 ILCS 5/10-16 ([organization of board](#)) and 5/10-16.5 ([oath of office](#)) and policies 2:80, *Board Member Oath and Conduct*, and 2:210, *Organizational School Board Meeting*. Boards that elect officers for one-year terms and/or hold organizational meetings yearly, replace the default text in number 1 with the following:

Annually organizing the Board by electing officers and establishing its regular meeting schedule and, thereafter, taking action during lawfully called meetings to faithfully fulfill the Board's responsibilities in accordance with Board policy and State and federal law.

<sup>2</sup> 105 ILCS 5/10-20.5 and [sample](#) policy 2:240, *Board Policy Development*; 105 ILCS 5/10-21; and 115 ILCS 5/, Ill. Educational Labor Relations Act.

<sup>3</sup> 105 ILCS 5/10-23.12(c), ~~added by P.A. 101-531~~; 105 ILCS 5/21B-75(b), amended by P.A.s ~~101-531~~, 102-552; and 102-702, ~~eff. 7-1-23~~. For further discussion see f/n 22 in [sample](#) policy 5:90, *Abused and Neglected Child Reporting*. **Note:** While 105 ILCS 5/10-23.12(c) permits boards to *immediately* dismiss certain employees upon the determination that he or she has willfully or negligently failed to report, this does not negate a board's responsibility to provide employees with due process required by the law and district policies and procedures. Consult the board attorney for further guidance.

<sup>4</sup> 105 ILCS 5/10-21.4 (employing superintendent); 5/10-20.7 and 5/10-21.1 (teachers); 5/10-21.9 (criminal history records checks); 5/10-22.34, amended by P.A. 102-894 (nonlicensed personnel); 5/10-22.4 (dismissing teachers for cause); and 5/10-23.5 and 5/24-12 (reduction in force). See policies in the **PRESS Policy Reference Manual** Sections 3, General School Administration, and 5, Personnel.

<sup>5</sup> 105 ILCS 5/10-16.7.

<sup>6</sup> 105 ILCS 5/10-20.19 and 5/17-1 *et seq.* See policies in the **PRESS Policy Reference Manual** Section 4, Operational Services.

6. Entering contracts in accordance with applicable federal and State law, including using the public bidding procedure when required. <sup>7</sup>
7. Providing, constructing, controlling, and maintaining adequate physical facilities; making school buildings available for use as civil defense shelters; and establishing a resource conservation policy. <sup>8</sup>
8. Establishing an equal educational opportunities policy that prohibits unlawful discrimination. <sup>9</sup>
9. Approving the curriculum, textbooks, and educational services. <sup>10</sup>
10. Evaluating the educational program and approving School Improvement ~~and District Improvement~~ Plans. <sup>11</sup>
11. Presenting the District report card and School report card(s) to parents/guardians and the community; these documents report District, School, and student performance. <sup>12</sup>
12. Establishing and supporting student behavior policies designed to maintain an environment conducive to learning, including deciding individual student suspension or expulsion cases brought before it. <sup>13</sup>
13. Establishing attendance units within the District and assigning students to the schools. <sup>14</sup>
14. Establishing the school year. <sup>15</sup>
15. Requiring a moment of silence to recognize veterans during any type of school event held at a District school on November 11. <sup>16</sup>
16. Providing student transportation services pursuant to State law. <sup>17</sup>
17. Entering into joint agreements with other boards to establish cooperative educational programs or provide educational facilities. <sup>18</sup>
18. Complying with requirements in the Abused and Neglected Child Reporting Act (ANCRA). Specifically, each individual Board member must, if an allegation is raised to the member during an open or closed Board meeting that a student is an abused child as defined in ANCRA,

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<sup>7</sup> 105 ILCS 5/10-20.21, amended by P.A.s 102-1101 and 103-8. See sample policy 4:60, *Purchases and Contracts*.

<sup>8</sup> For the first clause, see 105 ILCS 5/10-20.6, 5/10-20.12, 5/10-22.10, 5/10-22.35A, and 5/10-22.36; and sample policy 4:150, *Facility Management and Building Programs*. For the second clause, see 105 ILCS 5/10-22.35. For the third clause, see 105 ILCS 5/10-20.19c and sample policy 4:70, *Resource Conservation*.

<sup>9</sup> Many civil rights laws guarantee equal educational opportunities; see sample policy 7:10, *Equal Educational Opportunities*.

<sup>10</sup> 105 ILCS 5/10-20.8. See policies in the **PRESS Policy Reference Manual** Section 6, Instruction.

<sup>11</sup> 105 ILCS 5/2-3.25d, which addressed school and district improvement plans, was repealed by P.A. 100-1046. 105 ILCS 5/2-3.25f, amended by P.A. 103-175, and 105 ILCS 5/27-1. For more specific information about school ~~and district~~ improvement plans, see sample policy 6:10, *Educational Philosophy and Objectives*, and f/n 6 in sample policy 6:15, *School Accountability*.

<sup>12</sup> 105 ILCS 5/10-17a. This statute details the requirements for *presenting* the district report card and school report card(s), including presenting them at a regular school board meeting and posting them on the district's website.

<sup>13</sup> 105 ILCS 5/10-20.14 and 5/10-22.6. See sample policies 7:190, *Student Behavior*; 7:200, *Suspension Procedures*; and 7:210, *Expulsion Procedures*.

<sup>14</sup> 105 ILCS 5/10-21.3 and 5/10-22.5. See sample policy 7:30, *Student Assignment and Intra-District Transfer*.

<sup>15</sup> 105 ILCS 5/10-19, amended by P.A.s 101-12 and 101-643; 23 Ill.Admin.Code §1.420. See sample policy 6:20, *School Year Calendar and Day*.

<sup>16</sup> Recognizing veterans on Nov. 11 is required by 105 ILCS 5/10-20.46.

<sup>17</sup> 105 ILCS 5/10-22.22. See sample policy 4:110, *Transportation*.

<sup>18</sup> 105 ILCS 5/10-22.31a. See sample policy 1:20, *District Organization, Operations, and Cooperative Agreements*.

- direct or cause the Board to direct the Superintendent or other equivalent school administrator to comply with ANCRA's requirements concerning the reporting of child abuse. <sup>19</sup>
19. Notifying the State Superintendent of Education promptly and in writing of the name of a licensed teacher who was convicted of a felony, along with the conviction and the name and location of the court where the conviction occurred. <sup>20</sup>
  20. Notifying the Teachers' Retirement System (TRS) of the State of Ill. Board of Trustees promptly and in writing when it learns that a teacher as defined in the Ill. Pension Code was convicted of a felony, along with the name and location of the court where the conviction occurred, and the case number assigned by that court to the conviction. <sup>21</sup>
  21. Communicating the schools' activities and operations to the community and representing the needs and desires of the community in educational matters. <sup>22</sup>

### Indemnification <sup>23</sup>

To the extent allowed by law, the Board shall defend, indemnify, and hold harmless School Board members, employees, volunteer personnel (pursuant to 105 ILCS 5/10-22.34, 10-22.34a and 10-22.34b), mentors of certified staff (pursuant to 105 ILCS 5/2-3.53a, 2-3.53b, and 105 ILCS 5/21A-5 *et seq.*), and student teachers who, in the course of discharging their official duties imposed or authorized by law, are sued as parties in a legal proceeding. Nothing herein, however, shall be construed as obligating the Board to defend, indemnify, or hold harmless any person who engages in criminal activity, official misconduct, fraud, intentional or willful and wanton misconduct, or acts beyond the authority properly vested in the individual.

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<sup>19</sup> 325 ILCS 5/4(d), ~~amended by P.A. 101-564~~. Abuse and neglect are defined in 325 ILCS 5/3, amended by P.A.s 102-567 and 102-676. For an *adult student with a disability* see 20 ILCS 1305/1-17(b). While board members are not required to take mandated reporter training provided by the Ill. Dept. of Children and Family Services (DCFS), being familiar with ANCRA's definition of an abused child and how mandated reporting works enables board members to better meet their duty under 325 ILCS 5/4(d). Board members may learn about ANCRA by taking DCFS mandated reporter training (available to anyone online at: <https://mr.dcfstraining.org>) or IASB's ANCRA course (available in the Online Learning Center at: [www.iasb.com/conference-training-and-events/training/online-learning/www.iasb.com](http://www.iasb.com/conference-training-and-events/training/online-learning/www.iasb.com)).

<sup>20</sup> 105 ILCS 5/21B-85(a).

<sup>21</sup> *Id.* at 5/21B-85(b), amended by P.A. 102-552.

<sup>22</sup> See [sample](#) policy 8:10, *Connection with the Community*.

<sup>23</sup> 105 ILCS 5/10-20.20 (duty to indemnify) and 5/10-22.3 (duty to insure against loss or liability). These statutes identify the same individuals for protection except that the indemnification statute includes mentors of certified staff members. See f/n 3 in [sample](#) policy 4:100, *Insurance Management*.

Public officials or employees who are sued or incur loss because of the performance of their duties imposed or authorized by law on behalf of the public entity are entitled to indemnification. [McQuillan on Municipal Corporations](#) §12.137 (3rd ed. 1973). Public employees who must defend themselves in actions based upon the performance of official duties are entitled to indemnification. [Wayne Twp. Bd. of Auditors v. Ludwig](#), 154 Ill.App.3d 899 (2nd Dist. 1987). The public's interest is served by indemnifying public officials and employees in the performance of their official duties in order to recruit and retain qualified public employees and officials.

LEGAL REF.: 105 ILCS 5/10, 5/17-1, 5/21B-85, and 5/27-1.  
115 ILCS 5/, Ill. Educational Labor Relations Act.  
325 ILCS 5/, Abused and Neglected Child Reporting Act.

CROSS REF.: 1:10 (School District Legal Status), 1:20 (District Organization, Operations, and Cooperative Agreements), 2:10 (School District Governance), 2:80 (Board Member Oath and Conduct), 2:140 (Communications To and From the Board), 2:210 (Organizational School Board Meeting), 2:240 (Board Policy Development), 4:60 (Purchases and Contracts), 4:70 (Resource Conservation), 4:100 (Insurance Management), 4:110 (Transportation), 4:150 (Facility Management and Building Programs), 4:165 (Awareness and Prevention of Sexual Abuse and Grooming Behaviors), 4:175 (Convicted Child Sex Offender; Screening; Notifications), 5:10 (Equal Employment Opportunity and Minority Recruitment), 5:30 (Hiring Process and Criteria), 5:90 (Abused and Neglected Child Reporting), 5:120 (Employee Ethics; Code of Professional Conduct; and Conflict of Interest), 5:150 (Personnel Records), 5:210 (Resignations), 5:290 (Employment Termination and Suspensions), 6:10 (Educational Philosophy and Objectives), 6:15 (School Accountability), 6:20 (School Year Calendar and Day), 7:10 (Equal Educational Opportunities), 7:30 (Student Assignment and Intra-District Transfer), 7:190 (Student Behavior), 7:200 (Suspension Procedures), 7:210 (Expulsion Procedures), 8:10 (Connection with the Community), 8:30 (Visitors to and Conduct on School Property)

## School Board

### Qualifications, Term, and Duties of Board Officers <sup>1</sup>

The School Board officers are: President, Vice President, Secretary, and Treasurer.<sup>2</sup> These officers are elected or appointed by the Board at its organizational meeting.

#### President <sup>3</sup>

The Board elects a President from its members for a two-year term. The duties of the President are to:

1. Preside at all meetings;
2. Focus the Board meeting agendas on appropriate content;
3. Make all Board committee appointments, unless specifically stated otherwise;<sup>4</sup>
4. Attend and observe any Board committee meeting at his or her discretion;<sup>5</sup>
5. Represent the Board on other boards or agencies;
6. Sign official District documents requiring the President's signature, including Board minutes and Certificate of Tax Levy;
7. Call special meetings of the Board;
8. Serve as the head of the public body for purposes of the Open Meetings Act and Freedom of Information Act;<sup>6</sup>

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<sup>1</sup> State law controls this policy's content. Selection of officers must be in open session. 5 ILCS 120/2. Board officer vacancies are discussed in *Answers to FAQs: Vacancies on the Board of Education*, Ill. Council of School Attorneys, [www.iasb.com/law/vacancies.cfm](http://www.iasb.com/law/vacancies.cfm).

<sup>2</sup> Districts governed by a board of directors have three officers: a president, clerk, and treasurer. The president and clerk must be board members. 105 ILCS 5/10-5. While there is no prohibition on a board member simultaneously serving in two officer positions, doing so may create either the appearance of impropriety or a compliance issue for purposes of fraud protocols. Consult the board attorney for further guidance and/or request that the board member consult his or her own attorney.

<sup>3</sup> 105 ILCS 5/10-13. The board, by resolution may decrease to one year the term of office for the president. Of the listed duties, only the following are imposed by law: #1, preside at meetings (Id.); #6, sign minutes (105 ILCS 5/10-7) and sign certificate of tax levy (105 ILCS 5/17-11); #7, call special meetings (105 ILCS 5/10-16); and #8, serve as *head of the public body* for Open Meetings Act (OMA) and Freedom of Information Act (FOIA) purposes (5 ILCS 120/7(e)(2) and 140/2(e)).

<sup>4</sup> Alternatively, strike the "unless" clause and substitute: "subject to Board approval." Be sure this treatment is consistent with policy 2:150, *Committees*.

<sup>5</sup> Optional. A board that wants the president to participate in committee meetings may use the following alternative: "Be a member of all Board committees." Using this alternative, the president would be counted to determine the number of members that constitutes a quorum for each board committee meeting. If a board would like the superintendent to attend any or all meetings of a board committee, it should consider asking the superintendent to be a committee resource person (or other such title) rather than an ex-officio member of the board committee itself. That way, the superintendent will not count to determine the number of committee members that constitutes a quorum.

<sup>6</sup> The *head of the public body* or its attorney may request an advisory opinion from the Ill. ~~Attorney~~ Gen.eral Public Access Counselor (PAC) concerning compliance with OMA or FOIA. 5 ILCS 120/3.5(h) and 5 ILCS 140/9.5(h). FOIA defines *head of the public body* to mean *president* or "such person's duly authorized designee." 5 ILCS 140/2(e). Preliminary drafts, notes, recommendations, memoranda, and other records in which opinions are expressed, or policies are formulated, lose this exemption from disclosure if a relevant portion of a requested record is publicly cited and identified by the *head of the public body*. 5 ILCS 140/7(1)(f).

9. Ensure that a quorum of the Board is physically present at all Board meetings, except as otherwise provided by the Open Meetings Act; <sup>7</sup>
10. Administer the oath of office to new Board members; <sup>8</sup>
11. Serve as or appoint the Board's official spokesperson to the media;
12. Except when the Board President is the subject of a complaint of sexual harassment, a witness, or otherwise conflicted, appoint a qualified outside investigator to conduct an independent review of allegations of sexual harassment made against a Board member by another Board member or elected official; and <sup>9</sup>
13. Ensure that all fingerprint-based criminal history records information checks, screenings, and sexual misconduct related employment history reviews (EHRs) required by State law and policy 5:30, *Hiring Process and Criteria*, are completed for the Superintendent. <sup>10</sup>

The President is permitted to participate in all Board meetings in a manner equal to all other Board members, including the ability to make and second motions.

The Vice President fills a vacancy in the Presidency. <sup>11</sup>

### Vice President <sup>12</sup>

The Board elects a Vice President from its members for a two-year term. The Vice President performs the duties of the President if:

1. The office of President is vacant;
2. The President is absent; or
3. The President is unable to perform the office's duties.

A vacancy in the Vice Presidency is filled by a special Board election.

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<sup>7</sup> Optional. Requiring the president to monitor the presence of a quorum assists compliance with OMA's mandate that a quorum be physically present at all board meetings, except as otherwise provided by OMA. 5 ILCS 120/7.

<sup>8</sup> Optional. Omit this duty if policy 2:80, *Board Member Oath and Conduct*, provides that the board member oath is given by other means.

<sup>9</sup> See sample policy 2:105, *Ethics and Gift Ban, Complaints of Sexual Harassment Made Against Board Members by Elected Officials* subhead. 5 ILCS 430/70-5(a) requires school districts to amend their sexual harassment policies "to provide for a mechanism for reporting and independent review of allegations of sexual harassment made against an elected official of the governmental unit by another elected official of a governmental unit." If the board has chosen to have the Superintendent appoint an outside investigator in these cases (see 2:105, *Ethics and Gift Ban*, at f/n 12), remove item 12 from the list of board president duties and delete the Cross Reference to 2:105, *Ethics and Gift Ban*.

<sup>10</sup> See the subhead entitled **Screening** in sample policy 4:175, *Convicted Child Sex Offender; Screening; Notifications*, and the subheads entitled **Investigations** and **Sexual Misconduct Related Employment History Review** in sample policy 5:30, *Hiring Process and Criteria*.

<sup>11</sup> 105 ILCS 5/10-13.1 states that the "vice-president shall perform the duties of the president if there is a vacancy in the office of president or in case of the president's absence or inability to act ...". However, an earlier enacted statute calls for the appointment of a *president pro tempore* if the president is absent from any meeting or refuses to perform his or her duties, and specifies that the "vice-president, if the board elects such officer, shall be appointed the president pro tempore." 105 ILCS 5/10-13. This policy resolves any confusion by implementing the latter enacted statute and stating that the vice president fills a vacancy in the presidency.

<sup>12</sup> 105 ILCS 5/10-13.1. The board by resolution may decrease to one year the term of office for the vice president.

### Secretary <sup>13</sup>

The Board elects a Secretary for a two-year term. The Secretary may be, but is not required to be, a Board member. The Secretary may receive reasonable compensation as determined by the Board before appointment. However, if the Secretary is a Board member, the compensation shall not exceed \$500 per year, as fixed by the Board at least 180 days before the beginning of the term.<sup>14</sup> The duties of the Secretary are to:

1. Keep minutes for all Board meetings, and keep the verbatim record for all closed Board meetings;
2. Mail meeting notification and agenda to news media who have officially requested copies;
3. Keep records of the Board's official acts, and sign them, along with the President, before submitting them to the Treasurer at such times as the Treasurer may require;
4. Report to the Treasurer on or before July 7, annually, such information as the Treasurer is required to include in the Treasurer's report to the Regional Superintendent;
5. Act as the local election official for the District;
6. Arrange public inspection of the budget before adoption;
7. Publish required notices;
8. Sign official District documents requiring the Secretary's signature; and
9. Maintain Board policy and such other official documents as directed by the Board.

The Secretary may delegate some or all of these duties, except when State law prohibits the delegation. The Board appoints a secretary pro tempore, who may or may not be a Board member, if the Secretary is absent from any meeting or refuses to perform the duties of the office. A permanent vacancy in the office of Secretary is filled by special Board election.

### Recording Secretary <sup>15</sup>

The Board may appoint a Recording Secretary who is a staff member. The Recording Secretary shall:

1. Assist the Secretary by taking the minutes for all open Board meetings;
2. Assemble Board meeting material and provide it, along with prior meeting minutes, to Board members before the next meeting; and
3. Perform the Secretary's duties, as assigned, except when State law prohibits the delegation.

In addition, the Recording Secretary or Superintendent receives notification from Board members who desire to attend a Board meeting by video or audio means. <sup>16</sup>

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<sup>13</sup> 105 ILCS 5/10-14. The board by resolution may decrease to one year the term of office for the secretary. In districts governed by a board of directors, a clerk who is a board member performs these duties. 105 ILCS 5/10-5. The policy's provisions regarding compensation are required by 105 ILCS 5/10-14 (governs secretaries who are board members and non-board members) and by 50 ILCS 145/2 (governs secretaries who are board members).

Of the listed duties, only the following are imposed by law: #1, board meeting minutes (105 ILCS 5/10-7; see sample policy 2:220, *School Board Meeting Procedure*, for the requirements for minutes); #3, records board's official acts and submits them to the treasurer (105 ILCS 5/10-7); #4, treasurer's report (105 ILCS 5/10-8); #5, local election official (see f/ns 2 and 7 of [sample](#) policy 2:30, *School District Elections*); #6, public inspection of the budget (105 ILCS 5/17-1).

**Use this alternative for districts in suburban Cook County:** replace "Regional Superintendent" in item #4 with "appropriate Intermediate Service Center Executive Director."

<sup>14</sup> 105 ILCS 5/10-14 and 50 ILCS 145/2.

<sup>15</sup> This section is optional.

<sup>16</sup> To allow attendance by video or audio means, a board must adopt policy language conforming to the restrictions in OMA. 5 ILCS 120/2.01 and 120/7. See subhead **Quorum and Participation by Audio or Video Means** in [sample](#) policy 2:220, *School Board Meeting Procedure*, and its f/n 31.

## Treasurer <sup>17</sup>

The Treasurer of the Board shall be either a member of the Board who serves a one-year term or a non-Board member who serves at the Board's pleasure.<sup>18</sup> A Treasurer who is a Board member may not be compensated.<sup>19</sup> A Treasurer who is not a Board member may be compensated provided it is established before the appointment.<sup>20</sup> The Treasurer must: <sup>21</sup>

1. Be at least 21 years old;
2. Not be a member of the County Board of School Trustees; and
3. Have a financial background or related experience, or 12 credit hours of college-level accounting.

The Treasurer shall: <sup>22</sup>

1. Furnish a bond, which shall be approved by a majority of the full Board;
2. Maintain custody of school funds;
3. Maintain records of school funds and balances;
4. Prepare a monthly reconciliation report for the Superintendent and Board; and
5. Receive, hold, and expend District funds only upon the order of the Board.

A vacancy in the Treasurer's office is filled by Board appointment.

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<sup>17</sup> This section is for: (1) districts in a Class I county (all counties except Cook Co.), or (2) a Class II county (Cook Co.) district that has withdrawn from the authority of the township treasurer or is located in a township in which the office of township treasurer was abolished. 105 ILCS 5/5-1(a) defines Class I county school units as districts in counties with less than 2,000,000 inhabitants. Those districts in Cook Co., ~~county~~ (Class II county) under the authority of the trustees of schools of the township and the township treasurers should use this alternative: "Qualifications, appointment, and duties of the Treasurer for the School District shall be as provided in the School Code." See 105 ILCS 5/8-1(a) for how the township treasurer is appointed and the term of office; duties are found in 105 ILCS 5/8-2, 5/8-5, 5/8-6, 5/8-7, 5/8-16, and 5/8-17. For districts in a Class II county, in the Legal References insert "5/8-5" before "5/8-6" and insert "5/8-7" after "5/8-6."

<sup>18</sup> 105 ILCS 5/8-1(b). The treasurer's term of office is two years if the district is located in a Class II county (Cook Co.) that was under the jurisdiction and authority of the township treasurer and township trustees of schools at the time those offices were abolished. 105 ILCS 5/8-1(c). Those boards should use the following alternative:

The Treasurer of the Board shall serve a two-year term beginning and ending on the first day of July.

<sup>19</sup> 105 ILCS 5/8-1(b) and (c).

<sup>20</sup> 105 ILCS 5/8-3.

<sup>21</sup> Qualification #1 is required for treasurers in a Class I county or Class II county (Cook Co.) that withdrew from the authority of the township treasurer and township trustees of schools. 105 ILCS 5/8-1(b). This sample policy makes it applicable to Class II county (Cook Co.) districts that were under the authority of the township treasurer and township trustees of schools at the time those offices were abolished.

Qualification #2 is required for treasurers in a Class I county or Class II county (Cook Co.) that withdrew from the authority of the township treasurer and township trustees of schools. 105 ILCS 5/8-1(b). Districts in a Class II county (Cook Co.) that were under the authority of the township treasurer and township trustees of schools at the time those offices were abolished should replace this qualification as follows: "2. Not be the District Superintendent." 105 ILCS 5/8-1(c).

Qualification #3 is required for treasurers in a Class I county. 105 ILCS 5/8-1(d). This qualification should be replaced by the following for districts in a Class II county (Cook Co.): "Upon being appointed for his or her first term, be a certified public accountant or a certified chief school business official as defined in the School Code; experience as a township treasurer in a Class II county school before July 1, 1989 is deemed equivalent." 105 ILCS 5/8-1(e).

<sup>22</sup> 105 ILCS 5/8-2, amended by P.A. 103-49, 5/8-6, 5/8-7, and 5/8-16.



LEGAL REF.: 105 ILCS 5/8-1, 5/8-2, 5/8-3, 5/8-6, 5/8-16, 5/8-17, 5/10-1, 5/10-5, 5/10-7, 5/10-8, 5/10-13, 5/10-13.1, 5/10-14, 5/10-16.5, 5/10-21.9, 5/17-1, 5/21B-85, and 5/22-94.  
5 ILCS 120/7, Open Meetings Act.  
5 ILCS 420/4A-106, Ill. Governmental Ethics Act.

CROSS REF.: 2:80 (Board Member Oath and Conduct), 2:105 (Ethics and Gift Ban), 2:150 (Committees), 2:210 (Organizational School Board Meeting), 2:220 (School Board Meeting Procedure), 5:30 (Hiring Process and Criteria)

## School Board

### Board Member Development <sup>1</sup>

The School Board desires that its individual members learn, understand, and practice effective governance principles.<sup>2</sup> The Board is responsible for Board member orientation and development. Board members have an equal opportunity to attend State and national meetings designed to familiarize members with public school issues, governance, and legislation.

The Board President and/or Superintendent shall provide all Board members with information regarding pertinent education materials, publications, and notices of training or development.

### Mandatory Board Member Training <sup>3</sup>

Each Board member is responsible for his or her own compliance with the mandatory training laws that are described below:

1. Each Board member elected or appointed to fill a vacancy of at least one year’s duration must complete at least four hours of professional development leadership training in education and labor law, financial oversight and accountability, fiduciary responsibilities, and ~~(beginning in the fall of 2023)~~ trauma-informed practices for students and staff within the first year of his or her first term. <sup>4</sup>
2. Each Board member must complete training on the Open Meetings Act no later than 90 days after taking the oath of office for the first time. After completing the training, each Board member must file a copy of the certificate of completion with the Board. Training on the Open Meetings Act is only required once. <sup>5</sup>
3. Each Board member must complete a training program on evaluations under the Performance Evaluation Reform Act (PERA) before participating in a vote on a tenured teacher’s dismissal

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<sup>1</sup> State law governs the mandatory board member training provisions in this sample policy.

<sup>2</sup> The [Ill. Association of School Boards \(IASB\) Foundational Principles of Effective Governance](http://www.iasb.com/principles.cfm) is available online at [www.iasb.com/principles.cfm](http://www.iasb.com/principles.cfm).

<sup>3</sup> A board may omit the description of mandatory training requirements by deleting “that are described below” and deleting the numbered list. [IASB is an authorized provider of all mandatory trainings for school board members. To view IASB online trainings, see www.iasb.com/conference-training-and-events/training/online-learning/.](http://www.iasb.com/conference-training-and-events/training/online-learning/)

<sup>4</sup> 105 ILCS 5/10-16a, amended by P.A. 102-638. See 105 ILCS 5/10-16a(b-5) for the required and recommended elements of the training regarding trauma-informed practices. [See 105 ILCS 5/3-11, amended by P.A. 103-413, eff. 1-1-24, for the definitions of trauma, trauma-responsive learning environments \(including trauma aware, trauma responsive, and healing centered\), and whole child.](#)

<sup>5</sup> ~~5 ILCS 120/1.05(b) and (c). IASB is an authorized provider of this training. 5 ILCS 120/1.05(c).~~

using the optional alternative evaluation dismissal process. This dismissal process is available after the District's PERA implementation date. <sup>6</sup>

The Superintendent or designee shall maintain on the District website a log identifying the complete training and development activities of each Board member, including both mandatory and non-mandatory training. <sup>7</sup>

#### Professional Development; Adverse Consequences of School Exclusion; Student Behavior <sup>8</sup>

The Board President or Superintendent, or their designees, will make reasonable efforts to provide ongoing professional development to Board members about the adverse consequences of school exclusion and justice-system involvement, effective classroom management strategies, culturally responsive discipline, appropriate and available supportive services for the promotion of student attendance and engagement, and developmentally appropriate disciplinary methods that promote positive and healthy school climates.

#### Board Self-Evaluation

The Board will conduct periodic self-evaluations with the goal of continuous improvement. <sup>9</sup>

#### New Board Member Orientation <sup>10</sup>

The orientation process for newly elected or appointed Board members includes:

The Board President or Superintendent, or their designees, shall give each new Board member a copy of or online access to the Board Policy Manual, the Board's regular meeting minutes for the past year,

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<sup>6</sup> 105 ILCS 5/24-16.5. This mandatory training requirement was phased-in as districts implemented evaluations that incorporate student growth as a significant factor, otherwise known as Performance Evaluation Reform Act (PERA) evaluations. The implementation timeline for PERA evaluations varied from district to district but all districts ~~must had to~~ implement PERA evaluations. ~~After the implementation of PERA evaluations, a~~ district may use an optional alternative evaluative dismissal process using the PERA evaluation. Before voting on a dismissal based upon an optional alternative evaluative dismissal process, a board member must complete a training program on PERA evaluations. ~~IASB is an authorized provider of this training.~~ For more information about PERA, see *PERA Overview for School Board Members*, available at: [www.iasb.com/law/pera.cfm](http://www.iasb.com/law/pera.cfm).

<sup>7</sup> 105 ILCS 5/10-16a(b) requires each school district to post on its website, if any, the names of all board members who have completed the minimum of four hours of training described in #1. Recognizing that a board may want to highlight all training and development achievements, the sample policy extends this reporting requirement to all training and development activities. For a website reporting template, see 2:120-E2, *Website Listing of Development and Training Completed by Board Members*.

A board may choose to strictly follow the statute by using the following alternative: "The Superintendent or designee shall post on the District website the names of all Board members who have completed the professional development leadership training described in number 1, above."

<sup>8</sup> Optional. 105 ILCS 5/10-22.6(c-5). Information about professional development opportunities is available through IASB's ~~website at: [www.iasb.com/conference-training-and-events/training/](http://www.iasb.com/conference-training-and-events/training/)~~ ~~Online Learning Center (OLC). Inquire at: [onlinelearning@iasb.com](mailto:onlinelearning@iasb.com).~~

<sup>9</sup> Boards are not required to conduct self-evaluations, but may hold a closed meeting with representatives of a State association authorized under Article 23 of the School Code for the purpose of discussing self-evaluation practices and procedures, or professional ethics. 5 ILCS 120/2(c)(16).

<sup>10</sup> New board member orientation is a critical step in helping new board members become effective and in promoting a smoothly functioning new team. The ~~first paragraph~~ ~~orientation process~~ should ~~include information about~~ ~~be customized to~~ ~~add references to~~ the IASB policy services ~~to which the board subscribes~~ ~~that the district receives~~, e.g., **PRESS**, **PRESS-Online**, **School Board Policies Online** (**SBPOL**), and **PRESS Plus**.

and other helpful information including material describing the District and explaining the Board's roles and responsibilities.

The Board President or designee shall schedule one or more special Board meetings, or schedule time during regular meetings, for Board members to become acquainted and to review Board processes and procedures.

The Board President may request a veteran Board member to mentor a new member. <sup>11</sup>

All new members are encouraged to attend workshops for new members conducted by the Illinois Association of School Boards.

#### Candidates

The Superintendent or designee shall invite all current candidates for the office of Board member to attend: (1) Board meetings, except that this invitation shall not extend to any closed meetings, and (2) pre-election workshops for candidates.

LEGAL REF.: 5 ILCS 120/1.05 and 120/2, [Open Meetings Act](#).  
105 ILCS 5/10-16a and 5/24-16.5.

CROSS REF.: 2:80 (Board Member Oath and Conduct), 2:125 (Board Member Compensation; Expenses), 2:200 (Types of School Board Meetings)

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<sup>11</sup> See 2:120-E1, *Guidelines for Serving as a Mentor to a New School Board Member*.

## School Board

### Types of School Board Meetings <sup>1</sup>

#### General

For all meetings of the School Board and its committees, the Superintendent or designee shall satisfy all notice and posting requirements contained herein as well as in the Open Meetings Act. This shall include mailing meeting notifications to news media that have officially requested them and to others as approved by the Board.<sup>2</sup> Unless otherwise specified, all meetings are held in the District's main office.<sup>3</sup> Board policy 2:220, *School Board Meeting Procedure*, governs meeting quorum requirements.

The Superintendent is designated on behalf of the Board and each Board committee to receive the training on compliance with the Open Meetings Act that is required by Section 1.05(a) of that Act. The Superintendent may identify other employees to receive the training.<sup>4</sup> In addition, each Board member must complete a course of training on the Open Meetings Act as required by Section 1.05(b) or (c) of that Act.<sup>5</sup>

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<sup>1</sup> State law controls this policy's content. The provisions of the Open Meetings Act (OMA) do not apply to collective bargaining negotiations, including negotiating team strategy sessions, and grievance arbitrations as provided in 115 ILCS 5/18, ~~amended by P.A. 100-768~~.

<sup>2</sup> 5 ILCS 120/2.02. These responsibilities may be given to anyone.

<sup>3</sup> State law only requires that meetings be held in a location convenient and open to the public and no open meeting is allowed to be held on a legal holiday unless the regular meeting day falls on that holiday. 5 ILCS 120/2.01. According to an Ill. Atty. Gen. Public Access Counselor Opinion (PAO), a board may not meet in a private residence because it would not be convenient and open to the public, PAO 12-8. A board meeting 26 miles away from its regular location, while open to the public, was inconvenient because "the public, as a practical matter, would be deterred from attending it." PAO 13-14. Any person may record an open meeting. 5 ILCS 120/2.05. See sample policy 2:220, *School Board Meeting Procedure*.

<sup>4</sup> Each board must designate at least one employee or member to receive training on compliance with OMA. 5 ILCS 120/1.05. Revise this paragraph if the board designates other individual(s) to receive the training. A list of designated individual(s) must be submitted to the Ill. ~~Attorney Gen. eral's~~ Public Access Counselor (PAC). The designated individual(s) must successfully complete an electronic training curriculum administered by the PAC within 30 days after that designation, and thereafter must successfully complete an annual training program. ~~The~~ OMA does not specify duties for the designated individuals who receive the training but presumably they would assist the board in its OMA compliance efforts.

<sup>5</sup> 5 ILCS 120/1.05(b) applies to training administered by the Ill. ~~Attorney Gen. eral's~~ ~~e~~Office; 1.05(c) applies to training administered by IASB. Board members elected or appointed after 1-1-12 must complete the training not later than 90 days after taking the oath of office. Even before this law, compliance with ~~the~~ OMA has always been considered a shared responsibility of board members. Failing to complete ~~the~~ OMA training does not affect the validity of an action taken by the board nor is it considered a criminal violation. 5 ILCS 120/1.05(b) and 120/4. However, a person found to have violated any other provisions of ~~the~~ OMA is guilty of a Class C misdemeanor punishable by a \$1,500 fine and/or 30 days in jail. 5 ILCS 120/4.

## Regular Meetings

The Board announces the time and place for its regular meetings at the beginning of each fiscal year.<sup>6</sup> The Superintendent shall prepare and make available the calendar of regular Board meetings. The regular meeting calendar may be changed with 10 days' notice in accordance with State law.<sup>7</sup>

A meeting agenda shall be posted at the District's main office and the Board's meeting room, or other location where the meeting is to be held, at least 48 hours before the meeting.<sup>8</sup>

## Closed Meetings<sup>9</sup>

The Board and Board committees may meet in a closed meeting to consider the following subjects:

1. The appointment, employment, compensation, discipline, performance, or dismissal of specific employees, specific individuals who serve as independent contractors in a park, recreational, or educational setting, or specific volunteers of the public body or legal counsel for the public body, including hearing testimony on a complaint lodged against an employee, a specific individual who serves as an independent contractor in a park, recreational, or educational setting, or a volunteer of the public body or against legal counsel for the public body to determine its validity.<sup>10</sup> However, a meeting to consider an increase in compensation to a specific employee of a public body that is subject to the Local Government Wage Increase

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<sup>6</sup> ~~The~~ OMA and the School Code have different provisions regarding the establishment of a regular meeting schedule. ~~The~~ OMA requires each public body to prepare and make available a regular meeting schedule at the beginning of each calendar or fiscal year. 5 ILCS 120/2.03. The School Code states that this task is accomplished during the organizational meeting. By *announcing* the schedule at the beginning of each calendar or fiscal year and by *fixing* the schedule at the organizational meeting, a board can implement both laws. Note that the phrase in this sample policy, "at the beginning of each fiscal year," can be changed to "at the beginning of each calendar year."

<sup>7</sup> Regular meeting dates may be changed by giving at least 10 days' notice in a newspaper of general circulation and posting a notice at the district's main office. 5 ILCS 120/2.03. Districts with a population of less than 500, in which no newspaper is published, may give the 10 days' notice by posting a notice in at least three prominent places within the district, in addition to posting a notice at the district's main office. Id. Notice shall also be given to those news media having filed an annual request to receive notifications. Id.

<sup>8</sup> 5 ILCS 120/2.02(a). The posting location may need modification to comply with the law's requirement that the agenda be posted at the district's main office. For agenda requirements, see [sample policy 2:200, School Board Meeting Procedure](#).

OMA also requires that "any requested notice and agenda for the meeting be continuously available for public review during the entire 48-hour period preceding the meeting." ~~Emphasis added.~~ 5 ILCS 120/2.02(c) (emphasis added). The requirement for continuously available is satisfied if the district posts any required notice and agenda on its website. However, to comply with the legislative intent, posting on the district website does not replace the posting described in this sentence. See Rep. Pihos' remarks reported in *New open-meetings law; is hard-copy posting of agendas still required?*, Sept. 2012, Illinois Bar Journal.

For districts that do not post board meeting agendas on a website (because they do not have a website maintained by a full-time staff member), add the following sentence:

The agenda shall be continuously available for public review during the entire 48-hour period preceding the meeting. If a notice or agenda is not continuously available for the full 48-hour period due to actions outside of the district's control, the lack of availability does not invalidate any meeting or action taken.

<sup>9</sup> [5 ILCS 120/2\(c\), amended by P.A. 103-311](#). The reasons for closed meetings are frequently addressed in court decisions and Ill. Attorney Gen. oral opinions; only a few of these decisions/opinions are mentioned in the footnotes.

<sup>10</sup> "Th[is] exception is not intended to allow private discussion of fiscal matters, notwithstanding that they may directly or indirectly impact the employees of the public body." See PAOs 12-11 and 15-03. Discussing the elimination of an employee's position for reasons unrelated to the performance of the employee is not within the scope of Section 2(c)(1). See PAO 15-07. Nor does the exception permit a public body to hold closed sessions to discuss employees in general or issues that may ultimately have an impact on employees. See PAOs 15-05, 16-13, and 18-12.

- Transparency Act may not be closed and shall be open to the public and posted and held in accordance with [the Open Meetings Act]. 5 ILCS 120/2(c)(1), ~~amended by P.A. 101-459.~~ <sup>11</sup>
2. Collective negotiating matters between the public body and its employees or their representatives, or deliberations concerning salary schedules for one or more classes of employees. 5 ILCS 120/2(c)(2). <sup>12</sup>
  3. The selection of a person to fill a public office, as defined in the Open Meetings Act, including a vacancy in a public office, when the public body is given power to appoint under law or ordinance, or the discipline, performance or removal of the occupant of a public office, when the public body is given power to remove the occupant under law or ordinance. 5 ILCS 120/2(c)(3).
  4. Evidence or testimony presented in open hearing, or in closed hearing where specifically authorized by law, to a quasi-adjudicative body, as defined in the Open Meetings Act, provided that the body prepares and makes available for public inspection a written decision setting forth its determinative reasoning. 5 ILCS 120/2(c)(4).
  - ~~4.5. Evidence or testimony presented to the Board regarding denial of admission to school events or property pursuant to 105 ILCS 5/24-24, provided that the Board prepares and makes available for public inspection a written decision setting forth its determinative reasoning. 5 ILCS 120/2(c)(4.5).~~
  - ~~5.6. The purchase or lease of real property for the use of the public body, including meetings held for the purpose of discussing whether a particular parcel should be acquired. 5 ILCS 120/2(c)(5).~~
  - ~~6.7. The setting of a price for sale or lease of property owned by the public body. 5 ILCS 120/2(c)(6).~~
  - ~~7.8. The sale or purchase of securities, investments, or investment contracts. 5 ILCS 120/2(c)(7).~~
  - ~~8.9. Security procedures, school building safety and security, and the use of personnel and equipment to respond to an actual, a threatened, or a reasonably potential danger to the safety of employees, students, staff, the public, or public property. 5 ILCS 120/2(c)(8).~~
  - ~~9.10. Student disciplinary cases. 5 ILCS 120/2(c)(9).~~
  - ~~10.11. The placement of individual students in special education programs and other matters relating to individual students. 5 ILCS 120/2(c)(10).~~

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<sup>11</sup> The Local Government Wage Increase Transparency Act, 50 ILCS 155/, allows *disclosable payments* (described below) to Ill. Municipal Retirement Fund (IMRF) employees only when the school board has first discussed the specific payment to be made at a meeting open to the public and posted and held in accordance with the requirements of OMA. 50 ILCS 155/5, ~~amended by P.A. 101-228.~~

The provisions apply only to disclosable payments made to participating employees under Article Seven of the Illinois Pension Code (IMRF) who began participation before 1-1-11 and who are not subject to a collective bargaining agreement with respect to the employment upon which the participation is based.

*Disclosable payments* means a payment, whether in the form of an increase in the rate of earnings or a lump-sum payment, that would:

1. Be made by a participating employer to a participating employee after the employee has expressed to the employer his or her intent to retire or withdraw from service;
2. Have the effect of increasing the employee's reportable monthly earnings from that employer by more than 6% compared to the previous month; and
3. Be made between 12 months and 90 days prior to the employee's expected termination of service.

A disclosable payment also includes payment for accumulated sick leave; it does not include a refund of contributions or any payment required to be paid by State or federal law.

<sup>12</sup> Discussing a hiring freeze is not within the scope of Section 2(c)(2). See PAO 15-07. And if a public body is not engaged in collective bargaining at the time of the meeting, discussion of a hiring freeze does not constitute a collective negotiating matter. Id.

- ~~11~~.12. Litigation, when an action against, affecting or on behalf of the particular public body has been filed and is pending before a court or administrative tribunal, or when the public body finds that an action is probable or imminent, in which case the basis for the finding shall be recorded and entered into the minutes of the closed meeting. 5 ILCS 120/2(c)(11).
- ~~12~~.13. The establishment of reserves or settlement of claims as provided in the Local Governmental and Governmental Employees Tort Immunity Act, if otherwise the disposition of a claim or potential claim might be prejudiced, or the review or discussion of claims, loss or risk management information, records, data, advice or communications from or with respect to any insurer of the public body or any intergovernmental risk management association or self insurance pool of which the public body is a member. 5 ILCS 120/2(c)(12).
- ~~13~~.14. Self evaluation, practices and procedures or professional ethics, when meeting with a representative of a statewide association of which the public body is a member. 5 ILCS 120/2(c)(16). <sup>13</sup>
- ~~14~~.15. Discussion of minutes of meetings lawfully closed under the Open Meetings Act, whether for purposes of approval by the body of the minutes or semi-annual review of the minutes as mandated by Section 2.06. 5 ILCS 120/2(c)(21).
- ~~15~~.16. Meetings between internal or external auditors and governmental audit committees, finance committees, and their equivalents, when the discussion involves internal control weaknesses, identification of potential fraud risk areas, known or suspected frauds, and fraud interviews conducted in accordance with generally accepted auditing standards of the United States of America. 5 ILCS 120/2(c)(29).

The Board may hold a closed meeting, or close a portion of a meeting, by a majority vote of a quorum, taken at an open meeting. The vote of each Board member present, and the reason for the closed meeting, will be publicly disclosed at the time of the meeting and clearly stated in the motion and the meeting minutes. <sup>14</sup>

A single motion calling for a series of closed meetings may be adopted when such meetings will involve the same particular matters and are scheduled to be held within three months of the vote. <sup>15</sup>

No final Board action will be taken at a closed meeting. <sup>16</sup>

### Reconvened or Rescheduled Meetings

A meeting may be rescheduled or reconvened. Public notice of a rescheduled or reconvened meeting shall be given in the same manner as that for a special meeting, except that no public notice is required

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<sup>13</sup> IASB field services directors are available to facilitate a board self-evaluation.

<sup>14</sup> 5 ILCS 120/2a. Provided the open meeting was properly noticed, no additional notice is required to close the meeting. A motion to close a meeting can be as simple as, "I move that the Board hold [go into] a closed session to discuss [state one of the closed meeting grounds with reference to the specific section authorizing the closed meeting]."

The adequacy of a motion to go into closed session was discussed in Henry v. Anderson and Champaign Community Unit School Dist. No. 4, [827 N.E.2d 522 \(Ill.App.4,356 Ill.App.3d 952 \(4th Dist. 2005\)](#). A statutory citation is not required in the motion to go into closed session, but ~~the~~ OMA does require a reference to the specific exception.

The *litigation* exception is tricky. If the litigation has been filed and is pending, the motion to go into closed session need only state that the board will discuss litigation that has been filed and is pending. If the litigation has not been filed, the board must: (1) find that the litigation is probable or imminent, and (2) record and enter into the closed session minutes the basis for that finding. [4205 ILCS 5120/2\(c\)11](#). See City of Bloomington v. Raoul, [184 N.E.3d 366 \(Ill. App. 4th Dist. 2021\)](#) (finding city council improperly invoked litigation exception to justify closed session); PAO 21-03.

<sup>15</sup> Id.

<sup>16</sup> 5 ILCS 120/2(e). See also PAOs 13-03, 13-07, and 14-01.



when the original meeting is open to the public and: (1) is to be reconvened within 24 hours, or (2) an announcement of the time and place of the reconvened meeting was made at the original meeting and there is no change in the agenda. <sup>17</sup>

### Special Meetings

Special meetings may be called by the President or by any three members of the Board by giving notice thereof, in writing, stating the time, place, and purpose of the meeting to remaining Board members by mail at least 48 hours before the meeting, or by personal service at least 24 hours before the meeting. <sup>18</sup>

Public notice of a special meeting is given by posting a notice at the District's main office at least 48 hours before the meeting and by notifying the news media that have filed a written request for notice. A meeting agenda shall accompany the notice. <sup>19</sup>

All matters discussed by the Board at any special meeting must be related to a subject on the meeting agenda. <sup>20</sup>

### Emergency Meetings

Public notice of emergency meetings shall be given as soon as practical, but in any event, before the meeting to news media that have filed a written request for notice. <sup>21</sup>

### Posting on the District Website <sup>22</sup>

In addition to the other notices specified in this policy, the Superintendent or designee shall post the following on the District website: (1) the annual schedule of regular meetings, which shall remain posted until the Board approves a new schedule of regular meetings; (2) a public notice of all Board meetings; and (3) the agenda for each meeting which shall remain posted until the meeting is concluded.

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<sup>17</sup> 5 ILCS 120/2.02.

<sup>18</sup> 105 ILCS 5/10-16 (two members of a board of directors; 105 ILCS 5/10-6). Lawyers disagree whether three members may call a special meeting without violating OMA, although there is general agreement that no violation occurs if three members call a special meeting while they are participating in a lawful board committee meeting with the matter on the agenda.

<sup>19</sup> 5 ILCS 120/2.02. News media that gave the board an address or telephone number within the district's territorial jurisdiction must be given notice in the same manner as given board members.

OMA requires that "any required notice and agenda be *continuously available* for public viewing during the entire 48-hour period preceding the meeting." ~~Emphasis added~~, 5 ILCS 120/2.02(c) (~~emphasis added~~). The requirement for *continuously available* is satisfied if the district posts any required notice and agenda on its website. Posting on the district website does not replace the posting described in this paragraph. See f/n 8.

For districts that do not post board meeting notices and agendas on a website (because they do not have a website maintained by a full-time staff member), add the following sentence:

The notice and agenda shall be continuously available for public review during the entire 48-hour period preceding the meeting.

<sup>20</sup> Lawyers disagree whether OMA mandates this restriction, i.e., whether it restricts board *discussions* to items related to an item on the special meeting agenda. OMA limits board *action* to items on the agenda (5 ILCS 120/2.02(c)); it states that the validity of any action taken "which is germane to a subject on the agenda shall not be affected by other errors or omissions in the agenda." 5 ILCS 120/2.02(a). For agenda requirements, see [sample policy 2:220, School Board Meeting Procedure](#).

<sup>21</sup> 5 ILCS 120/2.02(a).

<sup>22</sup> Required *only if* the district has a website that is maintained by a full-time staff member; if not, this section may be omitted. 5 ILCS 120/2.02. Note that 5 ILCS 120/2.02(b) requires that a notice of *all* meetings be posted on the district website, but only notices of *regular* meetings must remain posted until the *regular* meeting is concluded. As this is an obvious oversight, it is wise to leave the notice of every meeting on the website until after the meeting occurred. The agenda must remain on the district website until the meeting is concluded. Id.

LEGAL REF.: 5 ILCS 120/, Open Meetings Act.  
5 ILCS 140/, Freedom of Information Act.  
105 ILCS 5/10-6 and 5/10-16.

CROSS REF.: 2:110 (Qualifications Term, and Duties of Board Officers), 2:120 (Board Member Development), 2:210 (Organizational School Board Meetings), 2:220 (School Board Meeting Procedure), 2:230 (Public Participation at School Board Meetings and Petitions to the Board), 6:235 (Access to Electronic Networks), [8:30 \(Visitors to and Conduct on School Property\)](#)

## School Board

### School Board Meeting Procedure <sup>1</sup>

#### Agenda

The School Board President is responsible for focusing the Board meeting agendas on appropriate content.<sup>2</sup> The Superintendent shall prepare agendas in consultation with the Board President. The President shall designate a portion of the agenda as a consent agenda for those items that usually do not require extensive discussion before Board action. Upon the request of any Board member, an item will be withdrawn from the consent agenda and placed on the regular agenda for independent consideration.<sup>3</sup>

Each Board meeting agenda shall contain the general subject matter of any item that will be the subject of final action at the meeting.<sup>4</sup> Items submitted by Board members to the Superintendent or the President shall be placed on the agenda for an upcoming meeting.<sup>5</sup> District residents may suggest

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<sup>1</sup> State law requires boards to have a policy concerning: (1) the public’s right to record meetings (5 ILCS 120/2.05), and (2) if applicable, attendance by video or audio means (5 ILCS 120/7, ~~amended by P.A. 101-640~~). Boards are not mandated to have a policy on the remaining topics covered in this policy. The following items are matters of local discretion: agenda preparation and contents, process for board members to have items placed on agenda, receipt and handling of residents’ requests for agenda inclusions, and order of business.

<sup>2</sup> Appropriate agenda content includes: establishing board processes, clarifying the district’s purpose, delegating authority, defining operating limits, monitoring district progress, and taking legally required board action. See *IASB’s Foundational Principles of Effective Governance* at: [www.iasb.com/IASB/media/Documents/found\\_prin.pdf](http://www.iasb.com/IASB/media/Documents/found_prin.pdf) [www.iasb.com/principles.cfm](http://www.iasb.com/principles.cfm).

<sup>3</sup> To comply with the Open Meetings Act’s (OMA’s) mandate that minutes contain a “summary of discussion on all matters proposed, deliberated, or decided,” a board should include a list of consent items in the agenda. OMA also requires that any final action “be preceded by a public recital of the nature of the matter being considered and other information that will inform the public of the business being conducted.” 5 ILCS 120/2(e). Some level of explanation of the consent agenda items must be verbally given before a board votes to approve a consent agenda. The Ill. Supreme Court has held that “the recital must announce the nature of the matter under consideration, with sufficient detail to identify the particular transaction or issue, but need not provide an explanation of its terms or its significance.” *Bd. of Educ. of Springfield Sch. Dist. No. 186 v. Atty. Gen. of Ill.*, 77 N.E.3d 625 (Ill. 2017).

<sup>4</sup> 5 ILCS 120/2.02(c). The Ill. Appellate Court held that OMA prohibits a board from voting on a matter at a regular meeting that is not on the pre-meeting published agenda. *Rice v. Bd. of Trustees of Adams Cnty.*, 326 Ill.App.3d 1120 (4th Dist. 2002).

<sup>5</sup> An alternative follows:  
Any Board member may submit suggested agenda items to the Board President for his or her consideration.

inclusions for the agenda.<sup>6</sup> The Board will take final action only on items contained in the posted agenda; items not on the agenda may still be discussed.<sup>7</sup>

The Superintendent shall provide a copy of the agenda, with adequate data and background information, to each Board member at least 48 hours before each meeting, except a meeting held in the event of an emergency.<sup>8</sup> The meeting agenda shall be posted in accordance with Board policy 2:200, *Types of School Board Meetings*.

The Board President shall determine the order of business at regular Board meetings. Upon consent of a majority of members present, the order of business at any meeting may be changed.

### Voting Method

Unless otherwise provided by law, when a vote is taken upon any measure before the Board, with a quorum being present, a majority of the votes cast shall determine its outcome.<sup>9</sup> A vote of *abstain* or

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<sup>6</sup> See [sample](#) policy 2:230, *Public Participation at School Board Meetings and Petitions to the Board*. In districts governed by a board of school directors, an appointed board official must give a person requesting consideration of a matter by the board a formal written response no later than 60 days after receiving the request. The response must establish a meeting before the board or list the reasons for denying the request. 105 ILCS 5/10-6.

Options follow to restrict the addition of new agenda items; the phrases between [ ] may be used together, separately, or eliminated.

Discussion items may be added to the agenda [at the beginning of a regular meeting] [upon unanimous approval of those Board members present].

<sup>7</sup> An ~~opinion from the Ill. Atty. Gen.~~ Public Access Counselor [Opinion \(PAO\)](#) found no violation of ~~the~~ OMA when a board removed an item from the agenda within the 48-hour notice time period. PAO 14-3. Removals inform the public that the board does not plan to proceed on the topic.

<sup>8</sup> State law does not require this, except that 105 ILCS 5/10-16 requires members to receive a written notice of a special meeting that includes the meeting's purpose.

<sup>9</sup> In most situations, the failure of a member to vote has the effect of acquiescence or concurrence with the majority of votes cast. [Prosser v. Village of Fox Lake, 438 N.E.2d 13491 Ill.2d 389](#) (Ill. 1982); [People v. Bertrand, 978 N.E.2d 681 \(Ill. App. 1st Dist. 2012\)](#). For example, a motion passes with a vote of two *yeas*, one *nay*, and four *abstentions*. A motion fails with a vote of two *yeas*, three *nays*, and two *abstentions*. A motion fails with a vote of three *yeas*, three *nays*, and one *abstain* because there is no majority. Exceptions include when a statute requires the *affirmative vote* of a majority or extra. Statutory exceptions include the following board actions:

1. Dismissing a teacher for any reason other than reduction of staff or elimination of that position requires approval by the majority of all members. 105 ILCS 5/24-12.
2. Directing the sale of district real property or buildings thereon must be approved by at least 2/3 of the board members ([105 ILCS 5/5-22](#)), unless the sale is residential property constructed or renovated by students as part of a curricular program, in which case, the board could engage the services of a licensed real estate broker to sell the property for a commission not to exceed 7%, contingent upon the public listing of the property on a multiple listing service for a minimum of 14 calendar days and a sale of the property happens within 120 days. [105 ILCS 5/5-22](#).
3. Making or renewing a lease of school property to another school district or municipality or body politic and corporate for a term longer than ten years, or to alter the terms of such a lease whose unexpired term exceeds 10 years, requires approval by at least 2/3 of the board's full membership. 105 ILCS 5/10-22.11.
4. Leasing any building, rooms, grounds, and appurtenances to be used by the district for school or administration purposes for a term longer than ten years, or to alter the terms of such a lease whose unexpired term exceeds ten years, requires approval by at least 2/3 of the board's full membership. 105 ILCS 5/10-22.12.
5. Obtaining personal property by lease or installment contract requires approval by an affirmative vote of at least 2/3 of the board members. *Personal property* includes computer hardware and software and all equipment, fixtures, and improvements to existing district facilities to accommodate computers. 105 ILCS 5/10-22.25a.
6. Adopting a supplemental budget after a successful referendum requires approval by a majority of the full board. 105 ILCS 5/17-3.2.

*present*, or a vote other than *yea* or *nay*, or a failure to vote, is counted for the purposes of determining whether a quorum is present. A vote of *abstain* or *present*, or a vote other than *yea* or *nay*, or a failure to vote, however, is not counted in determining whether a measure has been passed by the Board, unless otherwise stated in law. The sequence for casting votes is rotated. <sup>10</sup>

On all questions involving the expenditure of money and on all questions involving the closing of a meeting to the public, a roll call vote shall be taken and entered in the Board's minutes. An individual Board member may request that a roll call vote be taken on any other matter; the President or other presiding officer may approve or deny the request but a denial is subject to being overturned by a majority vote of the members present. <sup>11</sup>

### Minutes

The Board Secretary shall keep written minutes of all Board meetings (whether open or closed), which shall be signed by the President and the Secretary.<sup>12</sup> The minutes include: <sup>13</sup>

1. The meeting's date, time, and place;
2. Board members recorded as either present or absent;
3. A summary of the discussion on all matters proposed, deliberated, or decided, and a record of any votes taken;
4. On all matters requiring a roll call vote, a record of who voted yea and nay;
5. If the meeting is adjourned to another date, the time and place of the adjourned meeting;
6. The vote of each member present when a vote is taken to hold a closed meeting or portion of a meeting, and the reason for the closed meeting with a citation to the specific exception contained in the Open Meetings Act (OMA) authorizing the closed meeting;
7. A record of all motions, including individuals making and seconding motions;

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7. Petitioning the circuit court for an emergency election requires approval by a majority of the members. 10 ILCS 5/2A-1.4.
8. Expending funds in emergency situation in the absence of required bidding requires approval by at least 3/4 of the board. 105 ILCS 5/10-20.21(a)(xiv).
9. Exchanging school building sites requires approval by at least a 2/3 majority of the board. 105 ILCS 5/5-23.
10. Waiving the administrative cost cap requires approval by an affirmative vote of at least 2/3 of the board. 105 ILCS 5/17-1.5.
11. Authorizing an advisory question of public policy to be placed on the ballot at the next regularly scheduled election requires approval by a majority of the board. 105 ILCS 5/9-1.5.

<sup>10</sup> Voting sequence is at the board's discretion. A board may indicate how frequently it changes the voting sequence by adding *after each vote*, *monthly*, or *annually* to the end of the sentence. All board members, including officers, may make motions and vote.

<sup>11</sup> This paragraph's first sentence contains the requirements in 105 ILCS 5/10-7. The second sentence is optional and may be deleted or amended. Other optional provisions include:

**Option 1:** Any Board member may include a written explanation of his or her vote in the District file containing individual Board member statements; the explanation will not be part of the minutes.

**Option 2:** Any Board member may request that his or her vote be changed before the President announces the result.

<sup>12</sup> 105 ILCS 5/10-7 and 5 ILCS 120/2.06. The minutes are the only record showing that the board took official action, including necessary prerequisites to make such action legally sufficient. A non-member recording secretary or clerk may be given these responsibilities. 105 ILCS 5/10-14.

<sup>13</sup> All items listed are required to be recorded in minutes **except** items 7-9; other items may be included at the board's discretion. 5 ILCS 120/2.06 and 120/2a; 105 ILCS 5/10-7. The Ill. [Atty. Gen.](#) Public Access Counselor (PAC) found a board's vague reference to a *personnel matter* insufficient to meet the requirements of #3. PAO 13-7.

8. Upon request by a Board member, a record of how he or she voted on a particular motion;<sup>14</sup> and
9. The type of meeting, including any notices and, if a reconvened meeting, the original meeting's date.

The minutes shall be submitted to the Board for approval or modification at its next regularly scheduled open meeting. Minutes for open meetings must be approved within 30 days after the meeting or at the second subsequent regular meeting, whichever is later. <sup>15</sup>

Every six months, or as soon after as is practicable, in an open meeting, the Board: (1) reviews minutes from all closed meetings that are currently unavailable for public release, and (2) determines which, if any, no longer require confidential treatment and are available for public inspection.<sup>16</sup> This is also referred to as a *semi-annual review*. The Board may meet in a prior closed session to review the minutes from closed meetings that are currently unavailable for public release, but it reports its determination in open session. <sup>17</sup>

The Board's meeting minutes must be submitted to the Board Treasurer at such times as the Treasurer may require. <sup>18</sup>

The official minutes are in the custody of the Board Secretary.<sup>19</sup> Open meeting minutes are available for inspection during regular office hours within 10 days after the Board's approval;<sup>20</sup> they may be inspected in the District's main office, in the presence of the Secretary, the Superintendent or designee, or any Board member.

Minutes from closed meetings are likewise available, but only if the Board has released them for public inspection, except that Board members may access closed session minutes not yet released for public inspection (1) in the District's administrative offices or their official storage location, and (2) in the presence of the Recording Secretary, the Superintendent or designated administrator, or any elected

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<sup>14</sup> The intent behind this optional item is to give an individual member a means of recording his or her support or opposition to a motion that was taken by oral vote; it will record that the individual took an alternative position to that of the majority without having the minutes recite unnecessary detail.

<sup>15</sup> Required by 5 ILCS 120/2.06(b).

<sup>16</sup> Required by 5 ILCS 120/2.06(d), amended by P.A. 102-653. If a board is unable to conduct the review every six months, it must do so as soon after as is practicable, taking into account the nature and meeting schedule of the board. *Id.* A board may also conduct the review more frequently. For the sake of brevity and to align with the closed meeting exception in 5 ILCS 120/2(c)(21) that continues to refer to a public body's *semi-annual* review of its closed session minutes, this policy's exhibits use the term *semi-annual*, even though that term was removed from 5 ILCS 120/2.06(d).

While board notes from closed sessions may be confidential under the Freedom of Information Act (FOIA), they may be discoverable by the opposing party in a lawsuit. *Bobkoski v. Cary Sch. Dist.* 26, 141 F.R.D. 88 (N.D. Ill. 1992).

The failure to strictly comply with the semi-annual review does not cause the written minutes or related verbatim record to become public, provided that the board, within 60 days of discovering its failure to strictly comply, reviews the closed session minutes and reports the result of that review in open session. 5 ILCS 120/2.06(d), amended by P.A. 102-653.

<sup>17</sup> 5 ILCS 120/2(c)(21) allows boards to discuss the confidentiality needs of closed meeting minutes in closed meetings.

<sup>18</sup> Required by 105 ILCS 5/10-7.

<sup>19</sup> Optional provision: "A copy of the minutes is kept in a secure location appropriate for valuables."

<sup>20</sup> Required by 5 ILCS 120/2.06(b).

Board member.<sup>21</sup> The minutes, whether reviewed by members of the public or the Board, shall not be removed from the District’s administrative offices or their official storage location except by vote of the Board or by court order. <sup>22</sup>

The Board’s open meeting minutes shall be posted on the District website within ten days after the Board approves them; the minutes will remain posted for at least 60 days. <sup>23</sup>

#### Verbatim Record of Closed Meetings

The Superintendent, or the Board Secretary when the Superintendent is absent, shall audio record all closed meetings.<sup>24</sup> If neither is present, the Board President or presiding officer shall assume this responsibility. After the closed meeting, the person making the audio recording shall label the recording with the date and store it in a secure location. The Superintendent shall ensure that: (1) an audio recording device and all necessary accompanying items are available to the Board for every closed meeting, and (2) a secure location for storing closed meeting audio recordings is maintained close to the Board’s regular meeting location. <sup>25</sup>

After 18 months have passed since being made, the audio recording of a closed meeting is destroyed provided the Board approved: (1) its destruction, and (2) minutes of the particular closed meeting. <sup>26</sup>

Individual Board members may access verbatim recordings in the presence of the Recording Secretary, the Superintendent or designated administrator, or any elected Board member.<sup>27</sup> Access to the verbatim

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<sup>21</sup> 5 ILCS 120/2.06(f). The listed individuals in the statute are matched to the titles in the IASB Policy Reference Manual. If the board wishes to mirror the statutory language, delete: ~~the Recording Secretary, the Superintendent or designated administrator, or any elected Board member~~ and replace with: “a records secretary, an administrative official of the public body, or any elected official of the public body.”

See the discussion in paragraph two of f/n 27 below about what *in the presence of* means.

<sup>22</sup> Id.

<sup>23</sup> Posting on the website is required *only if* the district has a website that is maintained by a full-time staff member; if not, this sentence may be omitted. 5 ILCS 120/2.06(b).

<sup>24</sup> Boards must keep a verbatim record of their closed meetings in the form of an audio or video recording. 5 ILCS 120/2.06(a). This sample policy uses audio recording only; a board that uses a video recording should amend this policy and exhibit 2:220-E1, *Board Treatment of Closed Meeting Verbatim Recordings and Minutes*.

The interests of continuity, efficiency, and ease of holding someone accountable suggest that the superintendent be made responsible for making and storing the verbatim recordings. If the superintendent is not present, e.g., during discussions concerning the superintendent’s contract, the tasks should be given to a board member.

<sup>25</sup> Alternatively, use: “is maintained within the District’s administrative offices or their official storage location.”

<sup>26</sup> This paragraph paraphrases 5 ILCS 120/2.06(c). No notification to, or the approval of, a records commission or the State Archivist is needed if a recording is destroyed under the conditions listed.

<sup>27</sup> 5 ILCS 120/2.06(e). The listed individuals align with the other titles used in the IASB Policy Reference Manual. If the board wishes to mirror the statute, delete: ~~the Recording Secretary, the Superintendent or designated administrator, or any elected Board member~~ and replace with: “a records secretary, an administrative official of the public body, or any elected official of the public body.”

The intent of the *in the presence of* language is meant to protect both (1) the verbatim recordings/closed session minutes (see f/n 21 above), and (2) the board members requesting access to them. It ensures that a school district official is present at all times when a requesting board member accesses the verbatim recording/closed session minutes. The requirement is meant to prevent misuse and removal of the verbatim recording/closed session minutes from the district offices or official storage location. It is also meant to protect the board member who requests the access from being alone and in a situation where the board member could potentially be accused of tampering with or taking the verbatim recording/closed session minutes.

Consult the board attorney about:

recordings is available at the District’s administrative offices or the verbatim recording’s official storage location.<sup>28</sup> Requests shall be made to the Superintendent or Board President. While a Board member is listening to a verbatim recording, it shall not be re-recorded or removed from the District’s main office or official storage location, except by vote of the Board or by court order. <sup>29</sup>

Before making such requests, Board members should consider whether such requests are germane to their responsibilities, service to District, and/or Oath of Office in policy 2:80, *Board Member Oath and Conduct*. In the interest of encouraging free and open expression by Board members during closed meetings, the recordings of closed meetings should not be used by Board members to confirm or dispute the accuracy of recollections. <sup>30</sup>

### Quorum and Participation by Audio or Video Means <sup>31</sup>

A quorum of the Board must be physically present at all Board meetings. A majority of the full membership of the Board constitutes a quorum.

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1. The practice of sending an *appointed* board member to be present with a board member who requests access to verbatim recordings/closed session minutes. 5 ILCS 120/2.06(e) states, “any *elected member of the Board/official of the public body*;” appointed is not listed but is mentioned elsewhere in the language of this section of the law;
2. Access to verbatim recordings/closed session minutes by other officials employed by the district, e.g., superintendent or other high-level administrators and even the board attorney; and
3. How this law affects the sharing of closed session minutes with board members prior to a meeting at which the closed session minutes will be approved.

The intent of P.A. 99-515, which amended 5 ILCS 120/2.06(e), was to manage a board member’s *individual* request for access to these items in the board member’s individual capacity (see [sample policy 2:80, Board Member Oath and Conduct](#)), not change prior practices in regard to other officials and board attorneys or the required work of school boards under various laws. While many attorneys do not interpret the law to restrict access or change procedures for these other high-level school officials and attorneys employed by the district, some attorneys do, and it is important to obtain legal advice on this specific issue.

<sup>28</sup> Id.

<sup>29</sup> Id.

<sup>30</sup> This paragraph is optional. It provides boards an opportunity to discuss and encourage each member to carefully think about purposes for their requests to listen to verbatim recordings, which historically has been and should continue to be to “access information relevant to the exercise of duties” for the public body. Intra-board conflicts may escalate if the recording is used to confirm or dispute who-said-what. Prior to P.A. 99-515, OMA did (and still does) allow boards to release these types of information. 5 ILCS 120/2.06(e). ~~Further, Ill. Atty. Gen. Op. 32, 1996, opined that board members cannot be denied access to information relevant to the exercise of his or her duties.~~ Board members should evaluate whether their requests under 5 ILCS 120/2.06(e) are “relevant to the exercise of their duties” before making such requests. Confirming or disputing who-said-what diverts resources away from operations of the district in educating its students. Additional considerations in listening to verbatim recordings may include personnel and student records confidentiality issues, which should be discussed with the board attorney.

<sup>31</sup> 5 ILCS 120/2.01 and 120/7, amended by P.A. ~~401-640~~[103-311](#). See also 105 ILCS 5/10-6 ([regular and special meetings](#)) and 5/10-12 ([quorum](#)). In order to allow attendance by video or audio means, a board must adopt a policy conforming to the restrictions in OMA. The statute requires the board member who wishes to attend remotely to notify the “recording secretary or clerk of the public body.” The policy includes the superintendent as a possible person to receive the notice. Everything in this section is required aside from provisions on the length of notification that is given the secretary and the process for accommodating the request. Alternatively, a board may: (1) prohibit members from participating by video or audio means by omitting this section, (2) add other requirements, or (3) alter the 24 hour notification. Note that the statute does not contemplate someone either approving or denying a request, only that the request be accommodated if the notification is provided.



Provided a quorum is physically present, a Board member may attend a meeting by video or audio conference if he or she is prevented from physically attending because of: (1) personal illness or disability, (2) employment or District business, ~~or~~ (3) a family or other emergency, or (4) unexpected childcare obligations. If a member wishes to attend a meeting by video or audio means, he or she must notify the recording secretary or Superintendent at least 24 hours before the meeting unless advance notice is impractical. The recording secretary or Superintendent will inform the Board President and make appropriate arrangements. A Board member who attends a meeting by audio or video means, as provided in this policy, may participate in all aspects of the Board meeting including voting on any item.

#### No Physical Presence of Quorum and Participation by Audio or Video; Disaster Declaration<sup>32</sup>

The ability of the Board to meet in person with a quorum physically present at its meeting location may be affected by the Governor or the Director of the Ill. Dept. of Public Health issuing a disaster declaration related to a public health emergency.<sup>33</sup> The Board President or, if the office is vacant or the President is absent or unable to perform the office's duties, the Vice President determines that an in-person meeting or a meeting conducted under the **Quorum and Participation by Audio or Video Means** subhead above, is not practical or prudent because of the disaster declaration; if neither the

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In a non-binding opinion, the PAC found a public body violated OMA when it allowed a board member to join a closed session meeting remotely without first taking action at that particular meeting in open session to approve the remote participation. 2019 PAC 57660. Therefore, even with the adoption of this policy to approve remote participation, best practice is to ensure the public is informed of any board members that are participating remotely for a particular board meeting. Consult the board attorney for advice on whether the board should take action every time it wishes to permit a member to participate remotely or in those instances where a board member objects to such participation.

<sup>32</sup> 5 ILCS 120/2.01 and 120/7(e)(1)-(10), ~~amended by P.A. 101-640~~. See also 105 ILCS 5/10-6 (regular and special meetings) and 5/10-12 (quorum). During the 2020 COVID-19 pandemic, Ill. Gov. Pritzker issued Executive Order (EO) 2020-07 pursuant to 20 ILCS 3305/7 (disaster proclamation due to public health emergency) that temporarily suspended OMA's physical quorum requirement. The Governor extended this OMA relief through subsequent Executive Orders as the crisis continued. In June of 2020, 5 ILCS 120/120/7(e), ~~amended by P.A. 101-640~~ was enacted, immediately requiring public bodies to meet a number of conditions before suspending the physical quorum requirement.

Boards must remember that public comment is still required when a quorum is not physically present at the meeting location. See Public Comment section of the Ill. Atty. Gen.'s guidance entitled *Guidance to Public Bodies on the Open Meetings Act and the Freedom of Information Act During the COVID-19 Pandemic* on p. 5 at: [www.foiapac.ilag.gov/content/pdf/Updated%20Remote%20Meetings%20Guidance%20May%202023.pdf](http://www.foiapac.ilag.gov/content/pdf/Updated%20Remote%20Meetings%20Guidance%20May%202023.pdf) [www.foia.ilattorneygeneral.net/pdf/OMA-FOIA-Guide.pdf](http://www.foia.ilattorneygeneral.net/pdf/OMA-FOIA-Guide.pdf).

<sup>33</sup> The phrase "due to public health emergency" aligns with Ill. Emergency Management Agency Act (IEMAA), 20 ILCS 3305/4 and 7, which provides the governor with the power to declare a disaster. 5 ILCS 120/7(e)(1), ~~amended by P.A. 101-640~~, uses the phrase "related to public health concerns because [the governor has declared] a disaster" and while not aligning with IEMA text, means "public health emergency." For ease of understanding and alignment with IEMA, this policy uses "public health emergency."

To avoid confusion, note that the triggers under 5 ILCS 120/7(e), ~~amended by P.A. 101-640~~, for when a school board may conduct its meetings by audio or video conference without the physical presence of a quorum are a bit more broad than the School Code's triggers to implement remote and/or blended remote learning days (RLD/BRLDs). OMA states (1) the "governor **or the director of IDPH** has issued a disaster declaration of a disaster as defined in 20 ILCS 3305/ . . ." This means that it is possible for the board to meet remotely if the director of IDPH declares a disaster under OMA, but that may not mean a district must implement RLD/BLRDs because the School Code states that the governor must declare the disaster.

President nor Vice President are present or able to perform this determination, the Superintendent shall serve as the duly authorized designee for purposes of making this determination. <sup>34</sup>

The individual who makes this determination for the Board shall put it in writing, include it on the Board's published notice and agenda for the audio or video meeting and in the meeting minutes,<sup>35</sup> and ensure that the Board meets every OMA requirement for the Board to meet by video or audio conference without the physical presence of a quorum. <sup>36</sup>

#### Rules of Order

Unless State law or Board-adopted rules apply, the Board President, as the presiding officer, will use the most recent edition of Robert's Rules of Order Newly Revised, as a guide when a question arises concerning procedure. <sup>37</sup>

#### Broadcasting and Recording Board Meetings

Any person may record or broadcast an open Board meeting.<sup>38</sup> Special requests to facilitate recording or broadcasting an open Board meeting, such as seating, writing surfaces, lighting, and access to electrical power, should be directed to the Superintendent at least 24 hours before the meeting.

Recording meetings shall not distract or disturb Board members, other meeting participants, or members of the public. The Board President may designate a location for recording equipment, may restrict the movements of individuals who are using recording equipment, or may take such other steps as are deemed necessary to preserve decorum and facilitate the meeting.

LEGAL REF.: 5 ILCS 120/2a, 120/2.02, 120/2.05, 120/2.06, and 120/7, [Open Meetings Act](#).  
105 ILCS 5/10-6, 5/10-7, 5/10-12, and 5/10-16.

CROSS REF.: 2:80 (Board Member Oath and Conduct), 2:150 (Committees), 2:200 (Types of School Board Meetings), 2:210 (Organizational School Board Meeting), 2:230 (Public Participation at School Board Meetings and Petitions to the Board)

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<sup>34</sup> 5 ILCS 120/7(e)(2), ~~amended by P.A. 101-640~~ states "the head of the public body as defined in [the Freedom of Information Act (FOIA), 5 ILCS 140/2(e), FOIA]." FOIA defines *head of the public body* to mean the *president* or "such person's duly authorized designee." 5 ILCS 140/2(e). Policy 2:110, *Qualifications, Term, and Duties of Board Officers*, designates the vice president to perform the duties of the president if that office is vacant or he or she is absent or unable to perform the office's duties.

For practical purposes if a disaster is declared due to a public health concern, this policy designates the superintendent as "[the president or vice president's] duly authorized designee" pursuant to the authority of 5 ILCS 140/2(e) for the board to move forward with the required determination to meet by audio or video with no physical presence of a quorum.

<sup>35</sup> While this phrase of the sentence is not required in OMA, many attorneys agree that transparency best practices in this situation include the individual making the determination to: (1) put it in writing referring to the specific disaster declaration applicable to the board's jurisdiction and the public health concern/public health emergency that applies to not having an in-person meeting; and (2) include that written determination (a) on the board's published notice and agenda for the audio or video meeting, and (b) in the meeting minutes.

<sup>36</sup> See [sample exhibit 2:220-E9, Requirements for No Physical Presence of Quorum and Participation by Audio or Video During Disaster Declaration](#).

<sup>37</sup> Boards are not required to follow any particular rules of order. Rules, however, must be in writing and available for public inspection, in order to have any legal effect. 105 ILCS 5/10-20.5.

<sup>38</sup> The public's right to record meetings must be addressed in board policy. 5 ILCS 120/2.05. However, a provision requiring advance notice to record a meeting is invalid. PAO 12-10.

## General School Administration

### Administrative Personnel Other Than the Superintendent <sup>1</sup>

#### Duties and Authority

The School Board establishes District administrative and supervisory positions in accordance with the District's needs and State law. This policy applies to all administrators other than the Superintendent, including without limitation, Building Principals. The general duties and authority of each administrative or supervisory position are approved by the Board, upon the Superintendent's recommendation, and contained in the respective position's job description.<sup>2</sup> In the event of a conflict, State law and/or the administrator's employment agreement shall control.

#### Qualifications

All administrative personnel shall be appropriately licensed and shall meet all applicable requirements contained in State law and Illinois State Board of Education rules. <sup>3</sup>

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<sup>1</sup> State or federal law controls this policy's content. 105 ILCS 5/10-23.8a requires each principal, assistant principal, and other school administrator to be employed under either: (1) a one-year contract, in which case he or she gains and retains tenure rights, or (2) a multi-year performance-based contract, in which case he or she waives all tenure rights but does not lose any previously acquired tenure credit with the district. A multi-year performance-based contract must contain specific student performance and academic improvement goals and indicators.

<sup>2</sup> Job descriptions are advisable, but optional. See sample policy 5:30, *Hiring Process and Criteria*, for a discussion of job descriptions. An Ill. State Board of Education (ISBE) rule (23 Ill.Admin.Code §1.310) allows *divided service*, meaning that a superintendent or principal may be employed by two school districts or serve in two professional capacities provided that full-time equivalency results in a maximum of one full-time position. In districts with an enrollment of 100 or fewer, an individual may serve as superintendent/principal and teach up to one-half day.

<sup>3</sup> 105 ILCS 5/21B-20 and 5/21B-25 govern Professional Educator Licenses and administrative, principal, and chief school business official endorsements. The requirements for supervisory or administrative staff are in 23 Ill.Admin.Code §1.705; the requirements for endorsements are in 23 Ill.Admin.Code Part 25, Subpart E. Standards for Administrative Endorsements are in 23 Ill.Admin.Code Part 29.

The following option may be added at the end of this paragraph:

Administrative personnel must reside in the District within a specified period as provided in their initial employment agreement.

State law (105 ILCS 5/24-4.1) prohibiting residency requirements for teachers does not apply to non-instructional personnel, e.g., assistant principals. *Owen v. Kankakee Sch. Dist.*, 261 Ill.App.3d 298 (3rd. Dist. 1994). A board may impose residency requirements on a principal or assistant principal only if the individual's initial contract with the district made residency an express condition of employment or continued employment as a principal. 105 ILCS 5/10-21.4a. Residency within a district may not be considered in determining a principal's compensation, assignment, or transfer. Id.

## Evaluation

The Superintendent or designee shall evaluate all administrative personnel and make employment and salary recommendations to the Board. <sup>4</sup>

Administrators shall annually present evidence to the Superintendent of professional growth through attendance at educational conferences, additional schooling, in-service training, and Illinois Administrators' Academy courses, or through other means as approved by the Superintendent. <sup>5</sup>

## Administrative Work Year

The work year for administrators shall be the same as the District's fiscal year, July 1 through June 30, unless otherwise stated in the employment agreement. In addition to legal holidays, administrators shall have vacation periods as approved by the Superintendent. All administrators shall be available for work when their services are necessary. <sup>6</sup>

## Compensation and Benefits

The Board and each administrator shall enter into an employment agreement that complies with Board policy and State law.<sup>7</sup> The terms of an individual employment contract, when in conflict with this policy, will control.

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<sup>4</sup> All licensed school district employees must be evaluated. 105 ILCS 5/24A-1, 23 Ill.Admin.Code §1.320. Each district must implement a performance evaluation plan for its principals and assistant principals. 105 ILCS 5/24A-15, amended by P.A. 102-729; 23 Ill.Admin.Code §50.300. The statutory deadline for evaluating principals and assistant principals depends on whether the individual's employment contract is for one year or multiple years: (1) the evaluation of individuals on a single year contract must take place annually by March 1, and (2) the evaluation of individuals on a multi-year contract must take place by March 1 of the contract's final year. 105 ILCS 5/24A-15, amended by P.A. 102-729. Individual contracts may require an earlier deadline. For the 2022-2023 school year only, ~~if the~~when the Governor's ~~has declared a~~disaster ~~declaration~~ due to a public health emergency was in effect, districts had ~~ve~~ the option to waive the evaluation requirement of principals and assistant principals who received either *excellent* or *proficient* ratings during the last school year in which they were evaluated, ~~as long as the Governor's disaster declaration remained in effect~~. Id. 105 ILCS 5/24A-3 requires that an individual who conducts an evaluation of a teacher, principal, or assistant principal, (1) be prequalified before undertaking any evaluation, and (2) participate in a regularly scheduled retraining program.

<sup>5</sup> The professional growth reporting requirements in this paragraph are optional. However, professional development activities are required for license renewal. 105 ILCS 5/21B-45, contains the license renewal process, along with the professional development hours and carry over of these hours.

A school board must require the administrators who evaluate employees to complete training on the evaluation of licensed personnel that is provided or approved by ISBE. 105 ILCS 5/24A-3 and 5/24A-20(a)(4). Any prequalification process or retraining program developed and used by a school district must, at a minimum, meet the requirements of 23 Ill.Admin.Code Part 50, Subpart E. Administrative personnel must participate in this training (1) before they evaluate, and (2) at least once during each certificate renewal cycle. 105 ILCS 5/24A-3.

<sup>6</sup> Legal holidays are provided by 105 ILCS 5/24-2, amended by P.A.s ~~101-642 (2020 Election Day)~~, 102-15 (2022 Election Day), ~~and~~ 102-14; and 102-334 (both establishing *Juneteenth National Freedom Day*), ~~and~~ 103-467 (2024 Election Day).

<sup>7</sup> According to 105 ILCS 5/10-23.8a, a principal, assistant principal, and any other school administrator must be employed under either: (1) a one-year contract, in which case he or she gains and retains tenure rights, or (2) a multi-year performance-based contract, in which case he or she waives all tenure rights but does not lose any previously acquired tenure credit with the district. A multi-year performance-based contract must contain specific student performance and academic improvement goals and indicators.

The employment contract should be *in writing* even though the School Code does not require it to be written. Contact the board attorney for assistance. An administrator who is not working under a written contract is presumed to have a contract of one year's duration. *Schaumburg Cmty. Consol. Sch. Dist. v. TRS*, 984 N.E.2d 66 (Ill. App. Ct. 4th Dist. 2013)(interpreting 105 ILCS 5/10-23.8a). The Ill. Statute of Frauds may make it impossible to execute an *oral* multi-year administrator contract or to *orally* extend a multi-year written contract. 740 ILCS 80/1.

The Board will consider the Superintendent's recommendations when setting compensation for individual administrators. These recommendations should be presented to the Board no later than the March Board meeting or at such earlier time that will allow the Board to consider contract renewal and nonrenewal issues.<sup>8</sup>

Unless stated otherwise in individual employment contracts, all benefits and leaves of absence available to teaching personnel are available to administrative personnel.<sup>9</sup>

LEGAL REF: 105 ILCS 5/10-21.4a, 5/10-23.8a, 5/10-23.8b, 5/21B, and 5/24A.  
23 Ill.Admin.Code §§1.310, 1.705, and 50.300; and Parts 25 and 29.

CROSS REF: 3:60 (Administrative Responsibility of the Building Principal), 4:165 (Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors), 4:175 (Convicted Child Sex Offender; Screening; Notifications), 5:30 (Hiring Process and Criteria), 5:90 (Abused and Neglected Child Reporting), 5:120 (Employee Ethics; Code of Professional Conduct; and Conflict of Interest), 5:150 (Personnel Records), 5:210 (Resignations), 5:250 (Leaves of Absence), 5:290 (Employment Termination and Suspensions)

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The Open Meetings Act requires all Ill. Municipal Retirement Fund (IMRF) employers, which includes school boards, to: (1) within six business days after approving a budget, web-post each employee's total compensation package if it exceeds \$75,000 per year; and (2) at least six days before approval, web-post an employee's total compensation package if it is \$150,000 or more. 5 ILCS 120/7.3. Conflicting opinions concern whether school districts must comply with these posting requirements for their employees who do not participate in IMRF. Contact the board attorney for advice.

Annually by Oct. 1, each school board must report to ISBE the base salary and benefits of the superintendent, administrators, and teachers it employs. 105 ILCS 5/10-20.47. Before this annual reporting to ISBE, the information must be presented at a regular school board meeting and then posted on the district's website, if any.

<sup>8</sup> State law does not address when the board should consider salary issues. The March deadline was chosen because the statutory notice deadline for reclassification is April 1 of the year in which a principal or assistant principal's contract expires unless the contract provides for an earlier deadline. 105 ILCS 5/10-23.8b. Alternatively, the policy could require that recommendations be presented "in a timely manner."

<sup>9</sup> State law does not require that administrative and teaching personnel receive identical benefits and leaves of absence, but it does set the minimum in days and type for all licensed personnel.

## Operational Services

### Fiscal and Business Management <sup>1</sup>

The Superintendent is responsible for the School District's fiscal and business management.<sup>2</sup> This responsibility includes annually preparing and presenting the District's statement of affairs to the School Board and publishing it before December 1 as required by State law.<sup>3</sup>

The Superintendent shall ensure the efficient and cost-effective operation of the District's business management using computers, computer software, data management, communication systems, and electronic networks, including electronic mail, the Internet, and security systems. Each person using the District's electronic network shall complete an *Authorization for Access to the District's Electronic Network*.<sup>4</sup>

### Budget Planning

The District's fiscal year is from July 1 until June 30.<sup>5</sup> The Superintendent shall present to the Board, no later than the first regular meeting in August, a tentative budget with appropriate explanation.<sup>6</sup> This budget shall represent the culmination of an ongoing process of planning for the fiscal support needed for the District's educational program. The District's budget shall be entered upon the Ill. State Board of Education's (ISBE) *School District Budget Form*.<sup>7</sup> To the extent possible, the tentative budget shall be balanced as defined by ISBE guidelines. The Superintendent shall complete a tentative deficit reduction plan if one is required by ISBE guidelines.<sup>8</sup>

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<sup>1</sup> State or federal law controls this policy's content. Article 17 of the School Code controls budgeting, tax levies, and tax warrants.

<sup>2</sup> Boards are authorized to hire a chief school business official. 105 ILCS 5/10-22.23a. Districts having a chief school business official may want to replace "Superintendent" with "Chief School Business Official" throughout this policy.

<sup>3</sup> 105 ILCS 5/10-17.

<sup>4</sup> See [sample](#) exhibits 6:235-AP1, E1, *Student Authorization for Access to the District's Electronic Networks*, and 6:235-AP1, E2, *Staff Authorization for Access to the District's Electronic Networks*. Use of electronic networks in the curriculum is covered in sample policy 6:235, *Access to Electronic Networks*.

<sup>5</sup> The board sets the fiscal year (105 ILCS 5/17-1) and this sentence should reflect that local decision. If the board sets an alternative fiscal year, State law provides, "If the beginning of the fiscal year of a district is subsequent to the time that the tax levy due to be made in such fiscal year shall be made, then such annual budget shall be adopted prior to the time such tax levy shall be made." *Id.* Consult the board attorney for guidance on the impact of an alternative fiscal year on the deadlines in this policy.

<sup>6</sup> The board must designate a person(s) to prepare a tentative budget. 105 ILCS 5/17-1. The purpose of this policy's directive for the superintendent to present a tentative budget "no later than the first regular meeting in August" is to ensure that the budget can be adopted by September 30 (see f/n 13). A board may amend this directive to give the superintendent additional flexibility by requiring him or her to present a tentative budget "during a regular Board meeting in August."

<sup>7</sup> Required by 105 ILCS 5/17-1. See [www.isbe.net/Pages/School-District-Joint-Agreement.aspx](http://www.isbe.net/Pages/School-District-Joint-Agreement.aspx).

<sup>8</sup> *Id.* The budget instructions from ISBE detail when a deficit reduction plan must be completed. State law requires the budget to be balanced and, if not, a three-year deficit reduction plan must be developed.

### Preliminary Adoption Procedures

After receiving the Superintendent's proposed budget, the Board sets the date, place, and time for:

1. A public hearing on the proposed budget,<sup>9</sup> and
2. The proposed budget to be available to the public for inspection.<sup>10</sup>

The Board Secretary shall arrange to publish a notice in a local newspaper stating the date, place, and time of the proposed budget's availability for public inspection and the public hearing.<sup>11</sup> The proposed budget shall be available for public inspection at least 30 days before the time of the budget hearing.

At the public hearing, the proposed budget shall be reviewed, including the cash reserve balance of all funds held by the District related to its operational levy and, if applicable, any obligations secured by those funds,<sup>12</sup> and the public shall be invited to comment, question, or advise the Board.<sup>13</sup>

### Final Adoption Procedures

The Board adopts a budget before the end of the first quarter of each fiscal year, September 30, or by such alternative procedure as State law may define.<sup>14</sup> To the extent possible, the budget shall be balanced as defined by ISBE; if not balanced, the Board will adopt a deficit reduction plan to balance the District's budget within three years according to ISBE requirements.<sup>15</sup>

The Board adopts the budget by roll call vote. The budget resolution shall be incorporated into the meeting's official minutes. Board members' names voting *yea* and *nay* shall be recorded in the minutes.<sup>16</sup>

The Superintendent or designee shall perform each of the following:

1. Post the District's final annual budget, itemized by receipts and expenditures, on the District's Internet website; notify parents/guardians that it is posted and provide the website's address.<sup>17</sup>

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<sup>9</sup> At least one public hearing must be held before final action is taken on the budget. 105 ILCS 5/17-1.

<sup>10</sup> The tentative budget must be conveniently available for public inspection for at least 30 days before final action on the budget. 105 ILCS 5/17-1.

<sup>11</sup> 105 ILCS 5/17-1 makes the board secretary responsible for this public notice at least 30 days before the hearing. If there is no newspaper published in the district, notice must be given by posting notices in five of the most public places in the district. 105 ILCS 5/17-1.

<sup>12</sup> 105 ILCS 5/17-1.3, added by P.A. 102-895, requires districts to disclose this cash reserve balance information "at the public hearing at which the district certifies its budget and levy for the taxable year." The statute does not specify the manner in which the disclosure must be made; for ease of administration, this sample policy manages disclosure at the budget hearing by including it in the budget review. To provide evidence of compliance, consider as a best practice recording this disclosure in the board meeting minutes and/or presenting it in writing. The term *operational levy* is not defined in the statute, but [the definition of operational funds in 105 ILCS 5/17-1.10, added by P.A. 103-394, references 105 ILCS 5/17-1.3 and supports that it may refer to a district's operating funds, which ISBE rules define as the Educational, Operations and Maintenance, Transportation, and Working Cash funds. 23 Ill. Admin. Code §100.20 includes the educational, transportation, and operation and maintenance funds.](#) Consult the board attorney for guidance.

<sup>13</sup> State law does not address what transpires during the budget hearing. See f/n 12, above, regarding disclosure of cash reserves at the budget hearing as a means to comply with 105 ILCS 5/17-1.3, added by P.A. 102-895.

<sup>14</sup> Required by 105 ILCS 5/17-1 and 5/17-3.2. See f/n 5.

<sup>15</sup> Required by 105 ILCS 5/17-1. See f/n 8.

<sup>16</sup> Required by 105 ILCS 5/10-7.

<sup>17</sup> Required by 105 ILCS 5/17-1.2, *only if* the district has a website. Delete this sentence unless the district has a website.

2. File a certified copy of the budget resolution and an estimate of revenues by source anticipated to be received in the following fiscal year, certified by the District's Chief Fiscal Officer, with the County Clerk within 30 days of the budget's adoption. <sup>18</sup>
3. Ensure disclosure to the public of the cash reserve balance of all funds held by the district related to its operational levy and, if applicable, any obligations secured by those funds, at the public hearing<sup>19</sup> at which the Board certifies its operational levy.
- 3.4. Present a written report that includes the annual average expenditures of the District's operational funds for the previous three fiscal years at or before the board meeting at which the Board adopts its levy. In the event the District's combined cash reserve balance of its operational funds is more than 2.5 times the annual average expenditures of those funds for the previous three fiscal years, the Board will adopt and file with ISBE a reserve reduction plan by December 31. <sup>20</sup>
- 4.5. Make all preparations necessary for the Board to timely file its Certificate of Tax Levy, including preparations to comply with the Truth in Taxation Act; file the Certificate of Tax Levy with the County Clerk on or before the last Tuesday in December. The Certificate lists the amount of property tax money to be provided for the various funds in the budget.
- 5.6. Submit the annual budget, a deficit reduction plan if one is required by ISBE guidelines, and other financial information to ISBE according to its requirements. <sup>21</sup>

Any amendments to the budget or Certificate of Tax Levy shall be made as provided in the School Code and Truth in Taxation Act. <sup>22</sup>

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<sup>18</sup> Required by 35 ILCS 200/18-50, which refers to "appropriation and budget ordinances or resolutions." School districts adopt budgets by board resolution. The budget serves as the district's appropriation.

<sup>19</sup> Required by 105 ILCS 5/17-1.3, added by P.A. 102-895. Consult the board attorney about the meaning of the *public hearing* for the levy and if the disclosure must always be made at the board meeting at which the board certifies the district's levy, or only in those instances where notice and a *public hearing* are required by the Truth in Taxation Law. 35 ILCS 200/18-70. Similar to the disclosure of cash reserves made at the budget hearing, a district may want to manage compliance for the levy hearing by incorporating the information into the presentation of the levy at the board meeting. See f/n 12, above.

<sup>20</sup> Delete this paragraph if a district receives federal impact funding. 105 ILCS 5/17-1.10(a), added by P.A. 103-394. Federal impact aid is designed to assist local school districts that have lost a portion of their local tax base because of federal ownership of property (e.g., military bases, low-rent housing properties, or concentrations of students that have parents/guardians in the uniformed services). For more information about federal impact aid, see [www.oese.ed.gov/offices/office-of-formula-grants/impact-aid-program/](http://www.oese.ed.gov/offices/office-of-formula-grants/impact-aid-program/) and [www.nafisdc.org/impact-aid-resources/impact-aid-payments/](http://www.nafisdc.org/impact-aid-resources/impact-aid-payments/). 105 ILCS 5/17-1.10(a), added by P.A. 103-394, requires a board to present "at a board meeting" a written report that includes the annual average expenditures of its *operational funds*, which include the educational, transportation, and operation and maintenance funds. Id. The average expenditures are calculated based on the district's most recently audited annual financial report (AFR). Id. For ease of administration, this sample policy manages presentation of the report in conjunction with the meeting at which a board adopts its levy, or earlier, if a district's AFR is available. Consult the board attorney if a district's AFR is not available before December 31 (the date by which a reserve reduction plan must be filed, if applicable); the board may need to rely upon estimated numbers in that scenario. If a district's ratio of its combined cash reserves of its operational funds to its average annual expenditures of those funds over the past three fiscal years exceeds 2.5, then the board must adopt and file a plan with ISBE to reduce its cash reserves to expenditures ratio to at or below 2.5 within three years. Id. at (b), added by P.A. 103-394.

<sup>21</sup> Required by 105 ILCS 5/17-1.

<sup>22</sup> 105 ILCS 5/17-11 and 35 ILCS 200/18-55 et seq.



## Budget Amendments

The Board may amend the budget by the same procedure as provided for in the original adoption. <sup>23</sup>

## Implementation

The Superintendent or designee shall implement the District's budget and provide the Board with a monthly financial report that includes all deficit fund balances. The amount budgeted as the expenditure in each fund is the maximum amount that may be expended for that category, except when a transfer of funds is authorized by the Board.

The Board shall act on all interfund loans<sup>24</sup>, interfund transfers<sup>25</sup>, transfers within funds<sup>26</sup>, and transfers from the working cash fund or abatements of it, if one exists. <sup>27</sup>

LEGAL REF.: 105 ILCS 5/10-17, 5/10-22.33, 5/17-1, 5/17-1.2, 5/17-1.3, [5/17-1.10](#), 5/17-2A, 5/17-3.2, 5/17-11, 5/20-5, 5/20-8, and 5/20-10.  
35 ILCS 200/18-55 et seq., Truth in Taxation Law.  
23 Ill.Admin.Code Part 100.

CROSS REF.: 4:20 (Fund Balances), 4:40 (Incurring Debt), 4:60 (Purchases and Contracts), 6:235 (Access to Electronic Networks)

ADMIN. PROC.: 6:235-AP1, E1 (Student Authorization for Access to the District's Electronic Networks), 6:235-AP1, E2 (Staff Authorization for Access to the District's Electronic Networks)

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<sup>23</sup> 105 ILCS 5/17-1; 23 Ill.Admin.Code Part 100.

<sup>24</sup> 105 ILCS 5/10-22.33, 5/20-4, 5/20-5, 5/20-8, and 5/20-10 and 23 Ill.Admin.Code §100.50. If the district loans money from the working cash fund to another fund, Section 5/20-10 requires the district to maintain a credit to the working cash fund (meaning that borrowing fund must repay the working cash fund).

<sup>25</sup> 105 ILCS 5/17-2A, amended by P.A.s 102-671 and 102-895, contains the requirements for a permanent transfer. P.A.102-895 extended the time period during which a district may transfer money from specified funds for any purpose through June 30, 2026.

<sup>26</sup> Transfers between the various items in any fund may not exceed in the aggregate ten percent of the total of such fund as set forth in the budget. If the aggregate exceeds 10%, the board must amend the budget. 105 ILCS 5/17-1.

<sup>27</sup> The purpose of the working cash fund is to enable the school district "to have in its treasury at all times sufficient money to meet demands for expenses." 105 ILCS 5/20-1. School officials, including board members, are liable "for any sum that may be unlawfully diverted from the working cash fund ..." 105 ILCS 5/20-6.

105 ILCS 5/20-10 codified a long-held practice and understanding of Ill. school districts. A district may abate (reduce the funds) money from the working cash fund at any time and transfer it to any district fund or funds most in need of the money, provided that the district maintains an amount to the credit of the working cash fund. This was a legislative overturn of a case concluding that any permanent transfer, including abatements, of the working cash fund should be transferred only to the education fund. See G.I.S. Venture v. Novak, 388 Ill.App.3d 184 (2nd Dist. 2009); G.I.S. Venture v. Novak, 385 Ill.Dec. 430 (2nd Dist. 2014). Abolishments (deplete all funds) of the working cash fund must still be transferred to the education fund only.

## Operational Services

### Revenue and Investments <sup>1</sup>

#### Revenue

The Superintendent or designee is responsible for making all claims for property tax revenue, State Aid, special State funds for specific programs, federal funds, and categorical grants.

#### Investments

The Superintendent shall either appoint a Chief Investment Officer or serve as one.<sup>2</sup> The Chief Investment Officer shall invest money that is not required for current operations, in accordance with this policy and State law. <sup>3</sup>

The Chief Investment Officer and Superintendent shall use the standard of prudence when making investment decisions. They shall use the judgment and care, under circumstances then prevailing, that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the safety of their capital as well as its probable income.<sup>4</sup>

#### Investment Objectives <sup>5</sup>

The objectives for the School District's investment activities are:

1. Safety of Principal - Every investment is made with safety as the primary and over-riding concern. Each investment transaction shall ensure that capital loss, whether from credit or market risk, is avoided.
2. Liquidity - The investment portfolio shall provide sufficient liquidity to pay District obligations as they become due. In this regard, the maturity and marketability of investments shall be considered.
3. Rate of Return - The highest return on investments is sought, consistent with the preservation of principal and prudent investment principles.
4. Diversification - The investment portfolio is diversified as to materials and investments, as appropriate to the nature, purpose, and amount of the funds.

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<sup>1</sup> Each district must have an investment policy; its detail and complexity must be appropriate to the nature of the funds, the funds' purpose, and the amount of the public funds within the investment portfolio. 30 ILCS 235/2.5(a).

<sup>2</sup> 30 ILCS 235/2.5(a)(7). Districts having a chief business official may use this alternative: "The Chief Business Official shall serve as the District's Chief Investment Officer." If a Township Treasurer manages the district funds, substitute this sentence:

The Township Treasurer shall serve as the Chief Investment Officer.

<sup>3</sup> Township and school treasurers are authorized by 105 ILCS 5/8-7 to enter into agreements regarding the deposit, investment, and withdrawal of district funds.

<sup>4</sup> The policy must include a standard of care. 30 ILCS 235/2.5(a)(2).

<sup>5</sup> The policy must address safety, liquidity, return (30 ILCS 235/2.5(a)), as well as diversification (30 ILCS 235/2.5(a)(4)). These objectives also serve as investment guidelines. 30 ILCS 235/2.5(a)(3). How these are addressed is at the board's discretion.

## Authorized Investments <sup>6</sup>

The Chief Investment Officer may invest District funds in one or more of the following:

1. Bonds, notes, certificates of indebtedness, treasury bills, or other securities now or hereafter issued, that are guaranteed by the full faith and credit of the United States of America as to principal and interest.
2. Bonds, notes, debentures, or other similar obligations of the United States of America, its agencies, and its instrumentalities.  
The term “agencies of the United States of America” includes: (a) the federal land banks, federal intermediate credit banks, banks for cooperative, federal farm credit banks, or any other entity authorized to issue debt obligations under the Farm Credit Act of 1971 and Acts amendatory thereto, (b) the federal home loan banks and the federal home loan mortgage corporation, and (c) any other agency created by Act of Congress.
3. Interest-bearing savings accounts, interest-bearing certificates of deposit or interest-bearing time deposits or any other investments constituting direct obligations of any bank as defined by the Illinois Banking Act.
4. ~~Short-term~~ Obligations of corporations organized in the United States with assets exceeding \$500,000,000 if: (a) such obligations are rated at the time of purchase at one of the three highest classifications established by at least two standard rating services and that mature not later than ~~three years~~ 270 days from the date of purchase, (b) such purchases do not exceed 10% of the corporation’s outstanding obligations, and (c) no more than one-third of the District’s funds may be invested in short-term obligations of corporations under this paragraph.
- ~~4.5.~~ Obligations of corporations organized in the United States with assets exceeding \$500,000,000 if: (a) such obligations are rated at the time of purchase at one of the three highest classifications established by at least two standard rating services and which mature more than 270 days but less than three years from the date of purchase, (b) such purchases do not exceed 10% of the corporation's outstanding obligations, and (c) no more than one-third of the District's funds may be invested in obligations of corporations under this paragraph.
- ~~5.6.~~ Money market mutual funds registered under the Investment Company Act of 1940, provided that the portfolio of any such money market mutual fund is limited to obligations described in paragraph (1) or (2) and to agreements to repurchase such obligations.
- ~~6.7.~~ Interest-bearing bonds of any county, township, city, village, incorporated town, municipal corporation, school district, the State of Illinois, any other state, or any political subdivision or

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<sup>6</sup> The policy must contain a “listing of authorized investments.” 30 ILCS 235/2.5(a)(1). 30 ILCS 235/2(a-1) allows school districts to invest public funds in interest-bearing bonds of any local government (see paragraph 6). Investments from which a board may choose are listed in this policy. See 30 ILCS 235/2, amended by P.A. [102-285400-752](#). Alternatively, a board may refer to that law by stating:

The Chief Investment Officer may invest any District funds in any investment as authorized in 30 ILCS 235/2, and Acts amendatory thereto.

Some attorneys are of the opinion that the Investment of Municipal Funds Act (IMFA) (50 ILCS 340/) authorizes school districts to invest funds in certain tax anticipation warrants. The IMFA applies to counties, park districts, sanitary districts, and other *municipal corporations*. *Id.* at 340/1. *Municipal corporation* is not specifically defined in the IMFA. Consult with the board attorney and/or bond counsel regarding the authority for such investments and the inclusion of the IMFA in this policy.

As part of its mission to protect public entities, the Municipal Securities Rulemaking Board (MSRB) has resources available that school officials may find helpful at: [www.msrb.org/EdCenter](http://www.msrb.org/EdCenter) [www.msrb.org/EducationCenter/Issuers/Issuing.aspx](http://www.msrb.org/EducationCenter/Issuers/Issuing.aspx). It provides information about bond issuance, required disclosures, and working with municipal advisors.

agency of the State of Illinois or any other state, whether the interest earned is taxable or tax-exempt under federal law. The bonds shall be (a) registered in the name of the municipality, county, or other governmental unit, or held under a custodial agreement at a bank, and (b) rated at the time of purchase within the four highest general classifications established by a rating service of nationally recognized expertise in rating bonds of states and their political subdivisions.

~~7.8.~~ Short term discount obligations of the Federal National Mortgage Association or in shares or other forms of securities legally issuable by savings banks or savings and loan associations incorporated under the laws of this State or any other state or under the laws of the United States. Investments may be made only in those savings banks or savings and loan associations, the shares, or investment certificates that are insured by the Federal Deposit Insurance Corporation. Any such securities may be purchased at the offering or market price thereof at the time of such purchase. All such securities so purchased shall mature or be redeemable on a date or dates prior to the time when, in the judgment of the Chief Investment Officer, the public funds so invested will be required for expenditure by the District or its governing authority.

~~8.9.~~ Dividend-bearing share accounts, share certificate accounts, or class of share accounts of a credit union chartered under the laws of this State or the laws of the United States; provided, however, the principle office of any such credit union must be located within the State of Illinois. Investments may be made only in those credit unions the accounts of which are insured by applicable law.

~~9.10.~~ A Public Treasurers' Investment Pool created under Section 17 of the State Treasurer Act. The District may also invest any public funds in a fund managed, operated, and administered by a bank, subsidiary of a bank, or subsidiary of a bank holding company or use the services of such an entity to hold and invest or advise regarding the investment of any public funds.

~~10.11.~~ The Illinois School District Liquid Asset Fund Plus.<sup>7</sup>

~~11.12.~~ Repurchase agreements of government securities having the meaning set out in the Government Securities Act of 1986, as now or hereafter amended or succeeded, subject to the provisions of said Act and the regulations issued there under. The government securities, unless registered or inscribed in the name of the District, shall be purchased through banks or trust companies authorized to do business in the State of Illinois.

Except for repurchase agreements of government securities that are subject to the Government Securities Act of 1986, as now or hereafter amended or succeeded, the District may not purchase or invest in instruments that constitute repurchase agreements, and no financial institution may enter into such an agreement with or on behalf of the District unless the instrument and the transaction meet all of the following requirements:

- a. The securities, unless registered or inscribed in the name of the District, are purchased through banks or trust companies authorized to do business in the State of Illinois.
- b. The Chief Investment Officer, after ascertaining which firm will give the most favorable rate of interest, directs the custodial bank to "purchase" specified securities from a

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<sup>7</sup> The Illinois School District Liquid Asset Fund Plus is an Illinois trust organized to permit Illinois school districts, community colleges, and educational service regions to pool their investment funds to obtain the highest possible investment yield consistent with maintaining liquidity and preserving capital, and to engage in cooperative cash management activities resulting in more efficient financial resource utilization. The program was developed in cooperation with the Ill. Association of School Boards, the Ill. Association of School Business Officials, and the Ill. Association of School Administrators. For more information, including regional representative contact information, see [www.iasbop2p.org/isdlaf/home](http://www.iasbop2p.org/isdlaf/home) [www.isdlafplus.com](http://www.isdlafplus.com).

designated institution. The “custodial bank” is the bank or trust company, or agency of government, that acts for the District in connection with repurchase agreements involving the investment of funds by the District. The State Treasurer may act as custodial bank for public agencies executing repurchase agreements.

- c. A custodial bank must be a member bank of the Federal Reserve System or maintain accounts with member banks. All transfers of book-entry securities must be accomplished on a Reserve Bank’s computer records through a member bank of the Federal Reserve System. These securities must be credited to the District on the records of the custodial bank and the transaction must be confirmed in writing to the District by the custodial bank.
- d. Trading partners shall be limited to banks or trust companies authorized to do business in the State of Illinois or to registered primary reporting dealers.
- e. The security interest must be perfected.
- f. The District enters into a written master repurchase agreement that outlines the basic responsibilities and liabilities of both buyer and seller.
- g. Agreements shall be for periods of 330 days or less.
- h. The Chief Investment Officer informs the custodial bank in writing of the maturity details of the repurchase agreement.
- i. The custodial bank must take delivery of and maintain the securities in its custody for the account of the District and confirm the transaction in writing to the District. The custodial undertaking shall provide that the custodian takes possession of the securities exclusively for the District; that the securities are free of any claims against the trading partner; and that any claims by the custodian are subordinate to the District’s claims to rights to those securities.
- j. The obligations purchased by the District may only be sold or presented for redemption or payment by the fiscal agent bank or trust company holding the obligations upon the written instruction of the Chief Investment Officer.
- k. The custodial bank shall be liable to the District for any monetary loss suffered by the District due to the failure of the custodial bank to take and maintain possession of such securities.

~~12-13.~~ 13. Any investment as authorized by the Public Funds Investment Act, and Acts amendatory thereto. Paragraph ~~13~~ supersedes paragraphs 1-~~12~~ and controls in the event of conflict.

Except as provided herein, investments may be made only in banks, savings banks, savings and loan associations, or credit unions that are insured by the Federal Deposit Insurance Corporation or other approved share insurer. <sup>8</sup>

The Chief Investment Officer and Superintendent shall regularly consider material, relevant, and decision-useful sustainability factors in evaluating investment decisions, within the bounds of financial and fiduciary prudence. Such factors include, but are not limited to: (1) corporate governance and leadership factors, (2) environmental factors, (3) social capital factors, (4) human capital factors, and

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<sup>8</sup> 30 ILCS 235/2, amended by P.A. [102-285/100-752](#).

(5) business model and innovation factors, as provided under the Ill. Sustainable Investing Act, 30 ILCS 238/.<sup>9</sup>

#### Selection of Depositories, Investment Managers, Dealers, and Brokers<sup>10</sup>

The Chief Investment Officer shall establish a list of authorized depositories, investment managers, dealers and brokers based upon the creditworthiness, reputation, minimum capital requirements, qualifications under State law, as well as a long history of dealing with public fund entities. The Board will review and approve the list at least annually.

In order to be an authorized depository, each institution must submit copies of the last two sworn statements of resources and liabilities or reports of examination that the institution is required to furnish to the appropriate State or federal agency.<sup>11</sup> Each institution designated as a depository shall, while acting as such depository, furnish the District with a copy of all statements of resources and liabilities or all reports of examination that it is required to furnish to the appropriate State or federal agency.<sup>12</sup>

The above eligibility requirements of a bank to receive or hold public deposits do not apply to investments in an interest-bearing savings account, interest-bearing certificate of deposit, or interest-bearing time deposit if: (1) the District initiates the investment at or through a bank located in Illinois, and (2) the invested public funds are at all times fully insured by an agency or instrumentality of the federal government.<sup>13</sup>

The District may consider a financial institution's record and current level of financial commitment to its local community when deciding whether to deposit funds in that financial institution. The District may consider factors including:<sup>14</sup>

1. For financial institutions subject to the federal Community Reinvestment Act of 1977, the current and historical ratings that the financial institution has received, to the extent that those ratings are publicly available, under the federal Community Reinvestment Act of 1977;
2. Any changes in ownership, management, policies, or practices of the financial institution that may affect the level of the financial institution's commitment to its community;
3. The financial impact that the withdrawal or denial of District deposits might have on the financial institution;
4. The financial impact to the District as a result of withdrawing public funds or refusing to deposit additional public funds in the financial institution; and
5. Any additional burden on the District's resources that might result from ceasing to maintain deposits of public funds at the financial institution under consideration.

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<sup>9</sup> This statement is required by 30 ILCS 235/2.5(a-5), ~~added by P.A. 101-473, eff. 1-1-20~~. See the Ill. Sustainable Investing Act (SIA)(30 ILCS 238/, ~~added by P.A. 101-473, eff. 1-1-20~~) for examples of these five *sustainability factors*. Id. at 238/20. Under the SIA, school districts, must “prudently integrate sustainability factors into its investment decisions-making, investment analysis, portfolio construction, due diligence, and investment ownership in order to maximize anticipated financial returns, minimize projected risk, and more effectively execute its fiduciary duty.” Id. See [www.illinoistreasurer.gov/Local Governments/Sustainable Investing Act for more information](http://www.illinoistreasurer.gov/Local_Governments/Sustainable_Investing_Act_for_more_information).

<sup>10</sup> The policy must address these topics. 30 ILCS 235/2.5(a)(11).

<sup>11</sup> 30 ILCS 235/6.

<sup>12</sup> Id.

<sup>13</sup> 30 ILCS 235/6.5.

<sup>14</sup> This paragraph is optional, but is authorized by 30 ILCS 235/8.

### Collateral Requirements <sup>15</sup>

All amounts deposited or invested with financial institutions in excess of any insurance limit shall be collateralized in accordance with the Public Funds Investment Act, 30 ILCS 235/. The Superintendent or designee shall keep the Board informed of collateral agreements.

### Safekeeping and Custody Arrangements <sup>16</sup>

The preferred method for safekeeping is to have securities registered in the District's name and held by a third-party custodian. Safekeeping practices should qualify for the Governmental Accounting Standards Board Statement No. 3, Deposits with Financial Institutions, Investments (including Repurchase Agreements), and Reverse Repurchase Agreements, Category I, the highest recognized safekeeping procedures.

### Controls and Report <sup>17</sup>

The Chief Investment Officer shall establish a system of internal controls and written operational procedures to prevent losses arising from fraud, employee error, misrepresentation by third parties, or imprudent employee action.

The Chief Investment Officer shall provide a quarterly investment report to the Board. The report will: (1) assess whether the investment portfolio is meeting the District's investment objectives, (2) identify each security by class or type, book value, income earned, and market value, (3) identify those institutions providing investment services to the District, and (4) include any other relevant information. The investment portfolio's performance shall be measured by appropriate and creditable industry standards for the investment type. <sup>18</sup>

The Board will determine, after receiving the Superintendent's recommendation, which fund is in most need of interest income and the Superintendent shall execute a transfer. This provision does not apply when the use of interest earned on a particular fund is restricted. <sup>19</sup>

### Ethics and Conflicts of Interest <sup>20</sup>

The Board and District officials will avoid any investment transaction or practice that in appearance or fact might impair public confidence. Board members are bound by the Board policy 2:100, *Board*

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<sup>15</sup> Collateral requirements are permissive; if used, guidelines regarding their use must be included in the policy. 30 ILCS 235/2.5(a)(5). The requirements for collateral agreements are in 30 ILCS 235/6(d). The sample policy contains one guideline, that is, that the board be kept informed of collateral agreements. An optional guideline follows:

In addition, the financial institution must provide the Board with a copy of its board of directors' meeting minutes evidencing that the board of directors approved the collateral agreement.

<sup>16</sup> The policy must address safekeeping and custody arrangements. 30 ILCS 235/2.5(a)(5). Registration requirements are in 30 ILCS 235/3.

<sup>17</sup> The policy must provide for internal controls, periodic review, and at least quarterly written investment reports. 30 ILCS 235/2.5(a)(6), (9), and (10). The operational procedures to prevent losses are best addressed by each district in consultation with its auditor and legal counsel. See [sample policy 4:80, Accounting and Audits](#); and [sample administrative procedures 4:80-API, Checklist for Internal Controls](#), and [4:80-AP2, Fraud, Waste, and Abuse Awareness Program](#).

<sup>18</sup> The policy must include performance measures. 30 ILCS 235/2.5(8).

<sup>19</sup> 105 ILCS 5/10-22.44. "Chief Business Official" may replace "Superintendent." Interest income earned on any funds for IMRF, Tort Immunity Act, Fire Prevention, Safety and Environmental Energy, and Capital Improvement Act are restricted to the respective fund. Id.

<sup>20</sup> The policy must address these topics. 30 ILCS 235/2.5(a)(12). The conflict of interest prohibition is in 30 ILCS 235/2(d).

*Member Conflict of Interest.* No District employee having influence on the District's investment decisions shall:

1. Have any interest, directly or indirectly, in any investments in which the District is authorized to invest,
2. Have any interest, directly or indirectly, in the sellers, sponsors, or managers of those investments, or
3. Receive, in any manner, compensation of any kind from any investments in that the agency is authorized to invest.

LEGAL REF.: 30 ILCS 235/, Public Funds Investment Act.  
30 ILCS 238/, Ill. Sustainable Investing Act.  
105 ILCS 5/8-7, 5/10-22.44, 5/17-1, and 5/17-11.

CROSS REF.: 2:100 (Board Member Conflict of Interest), 4:10 (Fiscal and Business Management), 4:80 (Accounting and Audits)



## Operational Services

### Purchases and Contracts <sup>1</sup>

The Superintendent shall manage the District's purchases and contracts in accordance with State law, the standards set forth in this policy, and other applicable School Board policies.

#### Standards for Purchasing and Contracting

All purchases and contracts shall be entered into in accordance with applicable federal and State law. The Board Attorney shall be consulted as needed regarding the legal requirements for purchases or contracts. All contracts shall be approved or authorized by the Board.

All purchases and contracts should support a recognized District function or purpose as well as provide for good quality products and services at the lowest cost, with consideration for service, reliability, and delivery promptness, and in compliance with State law.<sup>2</sup> No purchase or contract shall be made or entered into as a result of favoritism, extravagance, fraud, or corruption.

Adoption of the annual budget authorizes the Superintendent or designee to purchase budgeted supplies, equipment, and services, provided that State law is followed. Purchases of items outside budget parameters require prior Board approval, except in an emergency.<sup>3</sup>

When presenting a contract or purchase for Board approval, the Superintendent or designee shall ensure that it complies with applicable federal and State law, including but not limited to, those specified below:

1. Supplies, materials, or work involving an expenditure in excess of ~~\$35,000~~\$25,000 must comply with the State law bidding procedure, 105 ILCS 5/10-20.21, unless specifically exempted.<sup>4</sup>

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>1</sup> State law controls this policy's content. 105 ILCS 5/10-20.21, amended by P.A.s 102-1101 and 103-8, eff. 1-1-24, contains bidding plus other requirements. Other laws also govern district contracts. For example, the Prevailing Wage Act requires, among other things, that a district specify in all contracts for public works that the prevailing wage rate must be paid. 820 ILCS 130/. When a district awards work to a contractor without a public bid, contract, or project specification, the district must provide the contractor with written notice on the purchase order or a separate document indicating that not less than the prevailing rate of wages shall be paid to all laborers, workers, and mechanics performing work on the project. In addition, the district must notify all contractors of any rate changes by the Ill. Dept. of Labor (IDOL). 820 ILCS 130/4(f). The law allows a district to discharge this duty by including the following language in all contracts: "Any prevailing rate of wages as they are revised by the Ill. Dept. of Labor (IDOL) shall apply to this contract. You are notified that any rate changes to the prevailing wage rate are available on IDOL's official website." 820 ILCS 130/4(1). See 4:60-E, *Notice to Contractors*, for sample language.

<sup>2</sup> This end statement should be amended according to local board discretion.

<sup>3</sup> An optional addition follows: "Notwithstanding the above, the Superintendent shall not commit to any single, non-customary purchase or expenditure, excluding personnel, of greater than \$ \_\_\_\_\_ without prior Board approval." This optional provision's intent is to provide an internal control as well as to keep the board involved when the district is making a large purchase or expenditure, e.g., copiers, computers, textbooks, or something that might not happen every year. It is intended to cover purchases/expenditures regardless of whether they were previously budgeted.

<sup>4</sup> The bidding threshold increases from \$25,000 to \$35,000 on 1-1-24. 105 ILCS 5/10-20.21, amended by P.A. 103-8, eff. 1-1-24. See sample administrative procedure 4:60-API, *Purchases*, for bidding exemptions and the requirements for electronic bid opening. A board may set a lower bidding threshold by policy but should first seek its attorney's advice because such action may expand a board's vulnerability to a bidding challenge.

2. Construction, lease, or purchase of school buildings must comply with State law and Board policy 4:150, *Facility Management and Building Programs*.
3. Guaranteed energy savings must comply with 105 ILCS 5/19b-1 *et seq.*
4. Third party non-instructional services must comply with 105 ILCS 5/10-22.34c. <sup>5</sup>
5. Goods and services that are intended to generate revenue and other remunerations for the District in excess of \$1,000, including without limitation vending machine contracts, sports and other attire, class rings, and photographic services, must comply with 105 ILCS 5/10-20.21(b-5). The Superintendent or designee shall keep a record of: (1) each vendor, product, or service provided, (2) the actual net revenue and non-monetary remuneration from each contract or agreement, and (3) how the revenue was used and to whom the non-monetary remuneration was distributed. The Superintendent or designee shall report this information to the Board by completing the necessary forms that must be attached to the District's annual budget. <sup>6</sup>
6. Any contract to purchase food with a bidder or offeror must comply with 105 ILCS 5/10-20.21(b-10). <sup>7</sup>
7. The purchase of paper and paper products must comply with 105 ILCS 5/10-20.19c and Board policy 4:70, *Resource Conservation*. <sup>8</sup>
8. Each contractor with the District is bound by each of the following:
  - a. In accordance with 105 ILCS 5/10-21.9(f): (1) prohibit any of its employees who is or was found guilty of a criminal offense listed in 105 ILCS 5/10-21.9(c) and 5/21B-80(c)<sup>9</sup> to have direct, daily contact at a District school or school-related activity with one or more student(s); (2) prohibit any of the contractor's employees from having direct, daily contact with one or more students if the employee was found guilty of any offense in 5/21B-80(b) (certain drug offenses) until seven years following the end of the employee's sentence for the criminal offense;<sup>10</sup> and (3) require each of its employees who will have direct, daily contact with student(s) to cooperate during the District's fingerprint-based criminal history records check on him or her. <sup>11</sup>
  - b. In accordance with 105 ILCS 5/22-94: (1) prohibit any of its employees from having *direct contact with children or students* if the contractor has not performed a sexual misconduct related employment history review (EHR) of the employee or if the District objects to the employee's assignment based on the employee's involvement in an instance of sexual misconduct as provided in 105 ILCS 5/22-94(j)(3), which the contractor is required to disclose; (2) discipline, up to and including termination or denial of employment, any employee who provides false information or willfully fails

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<sup>5</sup> Concerning collective bargaining requirements, see McLean Co. Unit Dist. 5 v. AFSCME & IELRB, 12 N.E.3d 120 (4th Dist. 2014) (good faith bargaining on the decision to subcontract requires notice of the consideration of the subcontract before it is finalized; meeting with the union to provide an opportunity to discuss and explain the decision; providing information to the union; and giving consideration to any counterproposal the union makes).

<sup>6</sup> 105 ILCS 5/10-20.21(b-5).

<sup>7</sup> 105 ILCS 5/10-20.21(b-10).

<sup>8</sup> 105 ILCS 5/10-20.19c.

<sup>9</sup> 105 ILCS 5/10-21.9(c); 105 ILCS 5/21B-80(c).

<sup>10</sup> Id.

<sup>11</sup> The implementation process is in sample administrative procedure 4:60-AP3, *Criminal History Records Check of Contractor Employees*. See sample administrative procedure 5:30-AP2, *Investigations*, for a list of offenses which disqualify an individual from having direct, daily contact with one or more students until seven years following the end of the individual's sentence for the criminal offense.

to disclose information required by the EHR; (3) maintain all records of EHRs and provide the District access to such records upon request; and (4) refrain from entering into any agreements prohibited by 105 ILCS 5/22-94(g). <sup>12</sup>

- c. In accordance with 105 ILCS 5/24-5: (1) concerning each new employee of a contractor that provides services to students or in schools, provide the District with evidence of physical fitness to perform the duties assigned and freedom from communicable disease; and (2) require any new or existing employee who provides services to students or in schools to complete additional health examinations as required by the District and be subject to additional health examinations, including tuberculosis screening, as required by the Ill. Dept. of Public Health rules or order of a local health official. <sup>13</sup>

9. Any pavement engineering project using a coal tar-based sealant product or high polycyclic aromatic hydrocarbon sealant product for pavement engineering-related use must comply with the Coal Tar Sealant Disclosure Act. <sup>14</sup>

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<sup>12</sup> 105 ILCS 5/22-94, added by P.A. 102-702, ~~eff. 7-1-23~~. See [sample administrative procedure](#) 4:60-AP4, *Sexual Misconduct Related Employment History Review (EHR) of Contractor Employees*. For the definition of *sexual misconduct*, see 105 ILCS 5/22-85.5(c), added by P.A. 102-676, and sample policy 5:120, *Employee Ethics; Code of Professional Conduct; and Conflict of Interest*. *Direct contact with children or students* is defined as “the possibility of care, supervision, guidance, or control of children or students or routine interaction with children or students.” 105 ILCS 5/22-94(b), added by P.A. 102-702, ~~eff. 7-1-23~~. This standard, which triggers the EHR, appears on its face to be broader than the *direct, daily contact* standard that triggers the *complete criminal history records check* in 105 ILCS 5/10-21.9(f). See [sample administrative procedures](#) 5:30-AP2, *Investigations*, 4:60-AP3, *Criminal History Records Check of Contractor Employees*, and 4:60-AP4, *Sexual Misconduct Related Employment History Review (EHR) of Contractor Employees*, for more information. For example, a contracted night custodian who may have some passing, routine interaction with students who are on campus for after-school events, but does not have direct, daily contact with students triggers an EHR but not necessarily a *complete criminal history records check*. It is less clear if the reverse scenario could arise where a *complete criminal history records check* under 105 ILCS 5/10-21.9(f) would be required but an EHR would not be required. For ease of administration, a district may wish to require contractors to undergo a *complete criminal history records check* whenever the obligation to conduct an EHR is triggered, and vice versa.

105 ILCS 5/22-94(g), added by P.A. 102-702, ~~eff. 7-1-23~~, prohibits contractors from entering any agreement that: (1) has the effect of suppressing information concerning a pending or completed investigation in which an allegation of sexual misconduct was substantiated, (2) affects the ability of the contractor to report sexual misconduct to the appropriate authorities, or (3) requires the contractor to expunge information about allegations or findings of suspected sexual misconduct, unless an allegation is found to be false, unfounded, or unsubstantiated following an investigation.

<sup>13</sup> 105 ILCS 5/24-5. P.A. 98-716, expanded the scope of 105 ILCS 5/24-5 by adding a definition of *employee* that includes contractors’ employees for whom a criminal history records check is required. Since Aug. 2014, the Ill. Dept. of Public Health (IDPH) has not required school employees to be screened for tuberculosis other than workers in child day care and preschool settings. 77 Ill.Admin.Code §696.140(a)(3). Before requesting a contractor’s employee for a health examination, contact the board attorney concerning this action’s legality under other personnel laws, including the Americans with Disabilities Act of 1990 (42 U.S.C. §12101 *et seq.*).

<sup>14</sup> 410 ILCS 170/10(b), added by P.A. 102-242.

10. Design-build contracts must comply with 105 ILCS 5/15A-1 et seq. <sup>15</sup>

~~9-11.~~ Any new contract for a district-administered assessment must comply with 105 ILCS 5/10-20.85. <sup>16</sup>

~~10-12.~~ Purchases made with federal or State awards must comply with 2 C.F.R. Part 200 and 30 ILCS 708/, as applicable, and any terms of the award. <sup>17</sup>

The Superintendent or designee shall: (1) execute the reporting and website posting mandates in State law concerning District contracts, and (2) monitor the discharge of contracts, contractors' performances, and the quality and value of services or products being provided. <sup>18</sup>

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<sup>15</sup> 105 ILCS 5/15A-1 et seq., added by P.A. 103-491, eff. 1-1-24. Under a *design-build* delivery system for a construction project, a board contracts with a *design-build entity* that furnishes architecture, engineering, land surveying, public art or interpretive exhibits, and other construction services, as required for the project. It allows a single contractor to manage both the design and construction of a project, creating the potential for greater efficiency. Contrast this method with the traditional *design-bid-build* delivery method, in which a board contracts with multiple entities and utilizes a competitive bidding process for certain contractors, such as a general contractor. 105 ILCS 5/15A-1 et seq., added by P.A. 103-491, eff. 1-1-24, does not impact a district's ability to use a qualification-based selection process under 50 ILCS 510/. Local Government Professional Services Act (LGPSA), to select design professionals or construction managers for design-build projects. 105 ILCS 5/15A-50. See sample policy 2:170, *Procurement of Architectural, Engineering, and Land Surveying Services*. For design-build projects, consult with the board attorney as needed to ensure the district: (1) complies with the specific procedural requirements related to requests for proposals (RFPs) and evaluation of RFP submissions for these contracts, and (2) incorporates additional criteria for requests for proposals and evaluation of proposals based on local conditions and the specific project, as permitted by the statute. Note that under 105 ILCS 5/15A-20, added by P.A. 103-491, eff. 1-1-24, a board must employ or contract with an independent design professional or public art designer (as applicable) selected under the LGPSA to assist with developing the scope and criteria for performance for a request for proposal under a design-build delivery system.

<sup>16</sup> 105 ILCS 5/10-20.85, added by P.A. 103-393. See sample administrative procedure 4:60-API, *Purchases*, for specific requirements. A *district-administered assessment* is one that requires all student test takers at any grade level to answer the same questions, or a selection of questions from a common bank of questions. It does *not* include the observational assessment tool used to satisfy the annual kindergarten assessment required by 105 ILCS 5/2-3.64a-10 or an assessment developed by district teachers or administrators that is used to measure student progress at an attendance center. *Id.*

<sup>17</sup> 2 C.F.R. §§200.318-200.327; 30 ILCS 708/. The Grant Accountability and Transparency Act (GATA) adopts the federal uniform guidance for all grants, unless the Office of the Governor grants an exception. 30 ILCS 708/55; 44 Ill.Admin.Code §7000.60. For information about the scope of GATA as it pertains to grants administered by the Ill. State Board of Education, see [www.isbe.net/gata](http://www.isbe.net/gata).

<sup>18</sup> This is an optional provision. The numerous reporting and website posting mandates are in [sample exhibit 2:250-E2, Immediately Available District Public Records and Web-Posted Reports and Records](#). As an alternative to the policy's default language, a board may insert the underscored:

The Superintendent or designee shall: (1) execute the reporting and website posting mandates in State law concerning District contracts and maintain a status report for monthly presentation to the Board, and (2) monitor the discharge of contracts, contractors' performances, and the quality and value of services or products being provided.

LEGAL REF.: 2 C.F.R. Part 200.  
105 ILCS 5/10-20.19c, 5/10-20.21, [5/10-20.85](#), 5/10-21.9, 5/10-22.34c, [5/15A-1 et seq.](#), 5/19b-1 et seq., 5/22-94, and 5/24-5.  
30 ILCS 708/, Grant Accountability and Transparency Act.  
410 ILCS 170/, Coal Tar Sealant Disclosure Act.  
820 ILCS 130/, Prevailing Wage Act.

CROSS REF.: 2:100 (Board Member Conflict of Interest), 4:70 (Resource Conservation), 4:150 (Facility Management and Building Programs), 4:175 (Convicted Child Sex Offender; Screening; Notifications), 5:90 (Abused and Neglected Child Reporting)

## Operational Services

### Student Activity and Fiduciary Funds <sup>1</sup>

The School Board, upon the Superintendent or designee’s recommendation, establishes student activity funds to be managed by student organizations under the guidance and direction of a staff member for educational, recreational, or cultural purposes.<sup>2</sup> The Board, upon the Superintendent or designee’s recommendation, also establishes fiduciary funds to be supervised by the Superintendent or designee. The District has custodial responsibilities for fiduciary funds but no direct involvement in the management of such funds. <sup>3</sup>

#### Student Activity Funds

The Superintendent or designee shall be responsible for supervising student activity funds in accordance with Board policy, 4:80, *Accounting and Audits*; State law; and the Ill. State Board of Education (ISBE) rules for student activity funds. The Board will appoint a treasurer for each fund to serve as the fund’s sole custodian and be bonded in accordance with the School Code.<sup>4</sup> The treasurer shall have all of the responsibilities specific to the treasurer listed in ISBE rules for school activity funds, including the authority to make loans between activity funds. <sup>5</sup>

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>1</sup> State law controls this policy’s content. See 105 ILCS 5/10-20.19 and 23 Ill.Admin.Code §§100.80, 100.85. Due to their decentralized nature, student activity funds have historically been an area ripe for fraud, waste, and abuse. This policy supports a board member’s fulfillment of his or her fiduciary duty and oath to protect the assets of the district by directing the proper maintenance and control of student activity and fiduciary funds. 105 ILCS 5/10-16.5; see [sample](#) policy 2:80, *Board Member Oath and Conduct*. Adoption of this policy also aligns with mandatory board member training on fiduciary and financial oversight responsibilities. 105 ILCS 5/10-16a(b).

ISBE’s rules in Part 125 (Student Activity Funds and Convenience Accounts) were in effect only through 6-30-08 after which they were replaced by Part 100. The rules in Part 100 do not provide for *convenience accounts*. The rules in Part 100 were subsequently amended to recognize *fiduciary funds* separately from *student activity funds* in response to *Governmental Accounting Standards Board Statement No. 84*, available at: [www.gasb.org](http://www.gasb.org), [Sample Ppolicy](#), 7:325, *Student Fundraising Activities*, contains the elements required by State law for a policy on student fundraising activities.

<sup>2</sup> Student activity funds are established to account for money used to support the activities of student organizations and clubs, e.g., homeroom, yearbook, class year, choral or band group, class projects, student clubs, student council, and student-sponsored bookstore. 23 Ill.Admin.Code §100.20. Student activity funds are under the school board’s control, giving it a fiduciary responsibility to safeguard them along with district assets. In contrast to *fiduciary funds* (see f/n 7, below), the board, superintendent, or other district employees have direct involvement in how *student activity funds* are spent or attained. And, unlike fiduciary funds, student activity funds must be reported as part of a district’s Educational Fund for its annual financial reporting and budget, in accordance with *Governmental Accounting Standards Board Statement No. 84*. 23 Ill.Admin.Code §§100.80(e), 100.85.

<sup>3</sup> See f/n 7, below.

<sup>4</sup> 105 ILCS 5/8-2, [amended by P.A. 103-449](#). A board’s insurance carrier can assist the board with obtaining bonds for these individuals.

<sup>5</sup> See 23 Ill.Admin.Code §100.80(c) for the treasurer’s duties. ISBE’s rule permits the activity fund treasurer to make loans between funds “if and as authorized by the board’s policy.” 23 Ill.Admin.Code §100.80. A board that does not want to allow loans between activity funds should choose one of these alternatives:

**Alternative 1:** The treasurer shall have all of the authority and responsibilities specific to the treasurer listed in the Illinois State Board of Education rules for school activity funds, except that the treasurer is not authorized to make loans between activity funds.

Unless otherwise instructed by the Board, a student activity fund's balance will carry over to the next fiscal year. An account containing student activity funds that is inactive for 12 consecutive months shall be closed and its funds transferred to another student activity fund or authorized fund with a similar purpose. <sup>6</sup>

### Fiduciary Funds <sup>7</sup>

The Superintendent or designee shall be responsible for supervising fiduciary funds in accordance with Board policy 4:80, *Accounting and Audits*; State law; and ISBE rules for fiduciary funds. The Board will appoint a treasurer for each fund to serve as the fund's sole custodian and be bonded in accordance with the School Code.<sup>8</sup> The treasurer shall have all of the responsibilities specific to the treasurer listed in the ISBE rules for fiduciary funds. <sup>9</sup>

LEGAL REF.: 105 ILCS 5/8-2 and 5/10-20.19.  
23 Ill.Admin.Code §§100.20, 100.80, and 100.85.

CROSS REF.: 4:80 (Accounting and Audits), 7:325 (Student Fundraising Activities)

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**Alternative 2:** The treasurer shall have all of the authority and responsibilities specific to the treasurer listed in the Illinois State Board of Education rules for school activity funds, except that the treasurer must have the Board's approval before making a loan between activity funds.

<sup>6</sup> The authority for this paragraph's first sentence is 23 Ill.Admin.Code §100.80(c)(7); the second sentence is up to the local board's discretion. The following option may be inserted after the first sentence: "However, money remaining in any Senior Class fund after graduation will automatically transfer to the next year's class."

<sup>7</sup> Fiduciary funds are funds "received from an independent, outside source in which the school board is acting in an administrative capacity." 23 Ill.Admin.Code §100.20, e.g., outside, independent scholarship funds in which the district has no authority to decide how the funds are attained or awarded. *Id.* Unlike student activity funds, where "[t]he school board, superintendent, or district employees have direct involvement with the decisions of how the funds are spent or attained," a district has no control over how fiduciary funds are spent or raised. 23 Ill.Admin.Code §§100.20, 100.80, and 100.85. See 23 Ill.Admin.Code §100.85 for the specific characteristics and permitted activities of a fiduciary fund. Boards must take a number of specific actions for fiduciary funds that are delegated to the superintendent or designee in this policy and align with IASB's *Foundational Principles of Effective Governance*, at [www.iasb.com/conference-training-and-events/training/training-resources/foundational-principles-of-effective-governance/](http://www.iasb.com/conference-training-and-events/training/training-resources/foundational-principles-of-effective-governance/)—[www.iasb.com/principles\\_popup.cfm](http://www.iasb.com/principles_popup.cfm). 23 Ill.Admin.Code §100.85(b). Boards should consult their local auditors for guidance on whether a particular fund should be classified as a student activity fund or fiduciary fund.

<sup>8</sup> See f/n 4, above.

<sup>9</sup> See 23 Ill.Admin.Code §100.85(d) for the treasurer's duties.

# REFORMATTED

October:~~November 2018~~2023

4:130

## Operational Services

### Free and Reduced-Price Food Services<sup>1</sup>

Notice

**Commented [DJ1]:** Please note the large area of blank space on this page is intentional due to new formatting styles within **PRESS** materials. The spacing appears normal once the footnotes are removed.

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The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>1</sup> State or federal law controls this policy's content. A policy on eligibility for free and reduced-price meals is required by 7 C.F.R. §245.10 for districts participating in the National School Lunch or Breakfast Programs. See f/n 2 below for more information about programs.

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The Superintendent shall be responsible for implementing the District's free and reduced-price food services policy and all applicable programs.<sup>2 3</sup>

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>2</sup> Every public school must have a free lunch program. School Breakfast and Lunch Program Act, 105 ILCS 125/.

Each school where at least 40% or more of the students are eligible for free or reduced-price lunches must operate a school breakfast program. Childhood Hunger Relief Act, 105 ILCS 126/15. A school district may opt-out if the expense reimbursement would not fully cover the costs of implementing and operating the breakfast program. To do so, the district must petition its regional superintendent by February 15. The regional superintendent, after a public hearing, and by March 15, informs the district of his or her decision. If the regional superintendent does not grant an exemption, the district must implement a school breakfast program by the first student attendance day of the next school year. However, the school district or a resident of the school district may appeal the regional superintendent's decision to the State Superintendent of Education.

School districts must, by February 15, promulgate a plan to serve breakfast and/or lunch at each school where 50% or more of the students are eligible for free or reduced-price school meals *and* have a summer school program operating during the summer months. 105 ILCS 126/20. School districts must implement these programs every summer as long as the school district has a school or schools that meet the criteria. If a school building with a 50% or greater free and reduced percentage does not operate a summer school program, the school district shall make information available regarding the number of children in the school eligible for free or reduced-price school meals upon request by a non-profit organization. A school district may utilize an *opt-out* provision if documentation shows the expense reimbursement would not fully cover the costs of implementing and operating a program. To do so, the district must petition its regional superintendent of schools by January 15. The regional superintendent, after a public hearing, and by March 1, informs the district of his or her decision. If the regional superintendent does not grant an exemption, the district must implement and operate the summer food program the summer following the current school year. However, the school district or a resident of the school district may appeal the regional superintendent's decision to the State Superintendent of Education who shall hear appeals and make a final decision no later than April 1. Resources for promulgating a plan for a summer breakfast or lunch (or both) food service program are available on ISBE's website at: [www.isbe.net/Pages/National-School-Lunch-Program.aspx](http://www.isbe.net/Pages/National-School-Lunch-Program.aspx) and [www.isbe.net/Pages/Seamless-Summer-Option.aspx](http://www.isbe.net/Pages/Seamless-Summer-Option.aspx).

105 ILCS 126/16, ~~added by P.A. 99-850~~, requires qualifying school districts to implement and operate a *breakfast after the bell* program in each of its school buildings where:

1. At least 70% or more of the students are eligible for free or reduced-price lunches based upon the previous year's October claim (for those schools that participate in the National School Lunch Program (NSLP),
2. At least 70% or more of the students are classified as low-income according to the Fall Housing Data from the previous year (for those schools that do not participate in the NSLP-National School Lunch Program), or
3. An individual building's site percentage for free or reduced-price meals of 70% or more (for those schools using Provision 2 under Section 11(a)(1) of the federal Richard B. Russell National School Lunch Act or the Community Eligibility Provision (CEP) under Section 104(a) of the federal Healthy, Hunger-Free Kids Act of 2010 to provide universal meals).

Schools that fall below the applicable 70% threshold for two consecutive years may either continue participating in the program or discontinue it. *Id.*

Each school under this Section may determine the *breakfast after the bell* service model that best suits its students. Service models include, but are not limited to, breakfast in the classroom, grab and go breakfast, and second-chance breakfast. *Id.* at (c).

A district is not required to implement a breakfast after the bell program when it can demonstrate that:

- a. Delivery of school breakfasts effectively, as defined by 70% or more of free or reduced-price eligible students participating in the National School Breakfast Program (NSBP), or
- b. Its reimbursement for the program would not fully cover its implementation and operation costs due to district-specific circumstances (a cost analysis must be submitted to the school board, the board must hold a public hearing, and the board must pass a resolution that the district cannot afford to operate a breakfast after the bell program).

A board must post the time, date, place, and general subject matter of the public hearing on its website and notify the *Ill.* State Board of Education at least 14 days prior to the hearing. *Id.* at (d).

<sup>3</sup> 7 C.F.R. §245.10(a)(1).

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If State funding is available for the Healthy School Meals for All Program, the Board will annually determine if it will participate in the program.<sup>4</sup>

#### **Eligibility Criteria and Selection of Children**<sup>5</sup>

A student's eligibility for free and reduced-price food services shall be determined by the income eligibility guidelines, family-size income standards, set annually by the U.S. Dept. of Agriculture and distributed by the Ill. State Board of Education.

#### **Notification**<sup>6</sup>

At the beginning of each school year, by letter, the District shall notify students and their parents/guardians of: (1) eligibility requirements for free and reduced-price food service; (2) the application process; (3) the name and telephone number of a contact person for the program;<sup>7</sup> and (4) other information required by federal law. -The Superintendent shall provide the same information to: (1) informational media, the local unemployment office, and any major area employers contemplating layoffs;<sup>8</sup> and (2) the District's website (if applicable), all school newsletters, or students' registration

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<sup>4</sup> Optional. 105 ILCS 125/2.3, added by P.A. 103-532. Subject to appropriation, the Ill. State Board of Education (ISBE) is required to establish the Healthy School Meals for All Program. Id. at (b). Participating boards must offer eligible meals, without charge, to all students enrolled in schools that participate in the National School Breakfast Program (NSBP) and National School Lunch Program (NSLP). To receive State reimbursement under the Healthy School Meals for All Program, a board must: (1) annually notify ISBE of its intent to participate in the program; (2) maximize its access to federal funds for NSBP and NSLP by participating in the CEP or another special assistance alternative, if eligible, and (3) operate the NSBP and NSLP in a manner that in the opinion of ISBE, draws down the most possible federal funding for meals served in the NSBP and NSLP. Id. at (b) and (c). If State funding is insufficient to cover reimbursement of all interested boards, ISBE is required to inform eligible schools of the impact of the inadequate funding so that boards can make an informed decision about food service administration in their districts.

<sup>5</sup> 7 C.F.R. §245.3; see also the subhead titled Household Eligibility ~~Criteria-Information on ISBEState Board of Education's website at: [www.isbe.net/Pages/School-Based-Child-Nutrition-Documents.aspx](http://www.isbe.net/Pages/School-Based-Child-Nutrition-Documents.aspx)~~. If a child transfers from one district school to another district school, his or her eligibility for free or reduced price meals or for free milk, if previously established, is honored by the receiving school.

Beginning in the year 2011-2012, the U.S. Depts. of Agriculture and Education implemented the CEP, a new claiming option for providing reimbursements to school districts that provide free breakfasts and lunches to all students in schools with significantly economically disadvantaged populations. ~~It is called the Community Eligibility Provision (CEP)~~. For more information about qualifying for and claiming through this reimbursement method, see [www.isbe.net/Pages/Guidance-for-HHFKA.aspx](http://www.isbe.net/Pages/Guidance-for-HHFKA.aspx).

For districts that qualify for and claim the CEP, insert the following sentence at the end of the first sentence:

From time to time, the income eligibility guidelines and standards may not be necessary when reimbursements for students' free breakfasts and lunches are claimed through the U.S. Depts. of Agriculture and Education's Community Eligibility Provision (CEP). When claiming the CEP, the District will follow its requirements.

**All subheads in this policy that detail the legal requirements under State and federal laws continue to apply when CEP is used and should remain in the policy.**

<sup>6</sup> 7 C.F.R. §245.5; 23 Ill.Admin.Code §305.10(c). Any changes in the eligibility criteria must be announced according to 7 C.F.R. §245.5(b). Beginning 7-1-17, districts were required to clearly communicate their meal charge policy (or procedures) to students and their parents/guardians to ensure consistency and transparency. See sample exhibit 4:130-E, Free and Reduced-Price Food Services; Meal Charge Notifications. For additional guidance, see U.S. Dept. of Agriculture memo, Unpaid Meal Charges: Local Meal Charge Policies (7-8-16), available at: [www.fns.usda.gov/cn/unpaid-meal-charges-local-meal-charge-policies](http://www.fns.usda.gov/cn/unpaid-meal-charges-local-meal-charge-policies).

<sup>7</sup> 23 Ill.Admin.Code §305.10(c) requires notification of this one additional piece of information.

<sup>8</sup> 7 C.F.R. §245.5.

materials.<sup>9</sup> Parents/guardians enrolling a child in the District for the first time, any time during the school year, shall receive the eligibility information.

Nondiscrimination Assurance <sup>10</sup>

The District shall avoid publicly identifying students receiving free or reduced-price meals and shall use methods for collecting meal payments that prevent identification of children receiving assistance.

Appeal <sup>11</sup>

A family may appeal the District's decision to deny an application for free and reduced-price food services or to terminate such services as outlined by the U.S. Dept. of Agriculture in 7 C.F.R. §245.7, Determining Eligibility for Free and Reduced-Price Meals and Free Milk in Schools. The Superintendent shall establish a hearing procedure for adverse eligibility decisions and provide by mail a copy of them to the family. The District may also use these procedures to challenge a child's continued eligibility for free or reduced-price meals or milk.

During an appeal, students previously receiving food service benefits shall not have their benefits terminated. Students who were denied benefits shall not receive benefits during the appeal. <sup>12</sup>

The Superintendent shall keep on file for a period of three years a record of any appeals made and the hearing record. The District shall also maintain accurate and complete records showing the data and method used to determine the number of eligible students served free and reduced-price food services. These records shall be maintained for three years.

LEGAL REF.: U.S. Dept. of Agriculture, Food and Nutrition Service, National School Lunch Program, 7 C.F.R. Part 210.  
U.S. Dept. of Agriculture, Food and Nutrition Service, Determining Eligibility for Free and Reduced-Price Meals and Free Milk in Schools, 7 C.F.R. Part 245.  
[105 ILCS 125/, School Breakfast and Lunch Program Act](#) ~~and 126/~~.  
[105 ILCS 126/, Childhood Hunger Relief Act](#).  
23 Ill.Admin.Code §305.10 et seq.

**The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.**

<sup>9</sup> 23 Ill.Admin.Code §305.10(c). Only one medium must be used; a board may choose one medium and delete the others from the policy or use them all.

<sup>10</sup> 7 C.F.R. §§245.8 and 245.10(a)(4).

<sup>11</sup> 7 C.F.R. §245.7. The minimal hearing requirements are also found there.

<sup>12</sup> The Hunger-Free Students' Bill of Rights Act (HFSBRA) (105 ILCS 123/~~added by P.A. 100-1092~~) requires the district to provide a free meal or snack to a student who requests it, regardless of his or her ability to pay. See f/ns to sample policy 4:45, *Insufficient Fund Checks and Debt Recovery*, for more information about this law. The HFSBRA does not contain a publication requirement.

For boards that wish to inform their communities about students' rights under the HFSBRA, add "105 ILCS 123/, Hunger-Free Students' Bill of Rights Act" to the Legal References and insert the following sentence:

The status of a student's appeal or eligibility for free or reduced-price food services shall not relieve the District of its obligation to provide him or her with a free meal or snack under the Hunger-Free Students' Bill of Rights Act if he or she requests one, regardless of his or her ability to pay.

## Operational Services

### Environmental Quality of Buildings and Grounds <sup>1</sup>

The Superintendent shall take all reasonable measures to protect: (1) the safety of District personnel, students, and visitors on District premises from risks associated with hazardous materials, and (2) the environmental quality of the District's buildings and grounds. <sup>2</sup>

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>1</sup> State and/or federal law control this policy's content and require districts to:

1. Have a procedure to comply with the Structural Pest Control Act (225 ILCS 235/) and the Lawn Care Products Application and Notice Act (415 ILCS 65/). See [sample administrative procedure 4:160-AP, Environmental Quality of Buildings and Grounds](#).
2. Designate a staff person to be responsible for district compliance with the safety acts listed in #1 above. This policy designates the superintendent or designee.

Many State and federal laws regulate the environmental quality of schools. For example:

1. Several federal laws regulate asbestos as a hazardous substance, the most significant for schools being the Asbestos Hazard Emergency Response Act of 1986. 15 U.S.C. § 2641 *et seq.* The Asbestos Abatement Act, 105 ILCS 105/, requires schools to perform a variety of functions regarding asbestos. Federal and State regulations also require annual notice to parents and employees of the availability of the district's asbestos management plan. 40 C.F.R. §763.93(g)(4); 77 Ill.Admin.Code §855.300(a)(3). This can be inserted in student handbooks; the Ill. Principals Association (IPA) maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook* (MSH), at: [www.ilprincipals.org/msh/](http://www.ilprincipals.org/msh/) [www.ilprincipals.org/resources/model-student-handbook](http://www.ilprincipals.org/resources/model-student-handbook).
2. The Indoor Air Quality Act, 410 ILCS 87/. The Ill. Dept. of Public Health (IDPH) Guidelines for Indoor Air Quality are advisory, i.e., not enforceable. See [https://dph.illinois.gov/topics-services/environmental-health-protection/toxicology/indoor-air-quality-healthy-homeswww.idph.state.il.us/envhealth/factsheets/indoorairqualityguide\\_fs.htm](https://dph.illinois.gov/topics-services/environmental-health-protection/toxicology/indoor-air-quality-healthy-homeswww.idph.state.il.us/envhealth/factsheets/indoorairqualityguide_fs.htm).
3. The Smoke-Free Illinois Act, 410 ILCS 82/, bans tobacco smoking inside schools.
4. The Structural Pest Control Act, 225 ILCS 235/ requires [the Ill. Dept. of Public Health IDPH](http://www.idph.state.il.us/envhealth/ipm/index.htm) to establish guidelines for an integrated pest management program for schools. See <https://dph.illinois.gov/topics-services/environmental-health-protection/structural-pest-control/integrated-pest-managementwww.idph.state.il.us/envhealth/ipm/index.htm>, or [www.idph.state.il.us/envhealth/entpestfshts.htm](http://www.idph.state.il.us/envhealth/entpestfshts.htm) <https://dph.illinois.gov/topics-services/environmental-health-protection/structural-pest-control>.
5. Notices to employees and parents/guardians before pesticide applications are required by the Structural Pest Control Act, 225 ILCS 235/10.3. The Lawn Care Products Application and Notice Act requires similar notices but only to parents/guardians. 415 ILCS 65/3.
6. The Green Cleaning School Act, 105 ILCS 140/, and Green Cleaning for Elementary and Secondary Schools, 23 Ill.Admin.Code Part 2800, contain guidelines for green cleaning. See policy 4:150, *Facility Management and Building Programs*.
7. The Green Buildings Act requires all new State-funded building construction and major renovation projects to meet specified environmental requirements. 20 ILCS 3130/. Waivers may be granted by the Capital Development Board in certain situations. *Id.*
8. The Ill. legislature recommended that each occupied school building be tested every five years for radon and provided a process for the screening in 105 ILCS 5/10-20.48. Employers must provide all employees with an education and training program with respect to all toxic substances to which an employee is routinely exposed while working. 820 ILCS 255/16; 23 Ill.Admin.Code §1.330. However, this section and most of the Toxic Substances Disclosure to Employees Act (820 ILCS 255/) are **inoperative**; its implementing rules (56 Ill.Admin.Code Part 205) were repealed. Instead, the Ill. Dept. of Labor enforces the federal Occupational Safety and Health Administration Hazard Communication Standards at 29 C.F.R. §1910.1200. 820 ILCS 255/1.5, [amended by P.A. 102-1071](#). Thus, school districts must follow the federal disclosure and training requirements.

<sup>2</sup> A board persuaded by #8 in the above footnote may add the following option:

## Pesticides

Pesticides will not be applied on the paved surfaces, playgrounds, or playing fields of any school serving grades K-8 during a school day or partial school day when students are in attendance for instructional purposes.<sup>3</sup> Additionally, the application of any restricted use pesticides will not be prohibited-applied on or within 500 feet of school property during normal school hours.<sup>4</sup> Before pesticides are used on District premises, the Superintendent or designee shall notify employees and parents/guardians of students as required by the Structural Pest Control Act, 225 ILCS 235/, and the Lawn Care Products Application and Notice Act, 415 ILCS 65/.<sup>5</sup>

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If economically feasible, the Superintendent or designee shall manage the testing of each occupied school building for radon pursuant to Section 10-20.48 of the School Code.

A board may want to add the following option if it is concerned that employees who are eligible for district-paid hepatitis B vaccination are unaware of their eligibility:

The Superintendent or designee shall notify all employees who must be offered, according to State or federal law, District-paid hepatitis B vaccine and vaccination.

<sup>3</sup> Pesticide Application at Schools Act (PASA), 105 ILCS 160/, added by P.A. 103-496, prohibits schools serving students grades K-8 from scheduling pesticide applications on school grounds during the school day when students are in attendance for instructional purposes. Areas prohibited from treatment include paved surfaces, playgrounds and playing fields, where children are typically present. For High School only districts, delete this sentence, ~~Additionally,~~ at the start of the next sentence, and 105 ILCS 160/, Pesticide Application at Schools Act from the Legal References.

Pesticides is not specifically defined in PASA; however, the Illinois Pesticide Act (IPA) defines both pesticides and the subcategory of restricted use pesticides. 415 ILCS 60/4. PASA therefore appears broader than the IPA because it applies to all pesticides, including those that are not restricted use pesticides. See f/n 4, below. However, PASA is narrower than the IPA in two ways. First, PASA's geographic scope is narrower than the IPA because PASA does not apply to "areas of school grounds where children are typically not present, including, but not limited to flower beds and lawns surrounding the school not used as playing fields." Id. at 160/15. Second, PASA is narrower in that its prohibition is only in effect when students are in attendance for instruction, compared to the IPA prohibition that applies during normal school hours and could extend beyond instructional hours. See f/n 4, below. For ease in administering these slightly different standards, an elementary or unit district may want to follow the more restrictive geographic and temporal prohibitions in the IPA but apply them to all types of pesticides. See sample administrative procedure 4:160-AP, *Environmental Quality of Buildings and Grounds*.

<sup>4</sup> 415 ILCS 60/14 3.F., amended by P.A. 102-548. *Normal school hours* means Monday through Friday from 7 a.m. until 4 p.m., excluding days when classes are not in session. Id. The statute prohibits restricted pesticide applications during *normal hours* but defines *normal school hours*. This policy uses normal school hours. *State Restricted Pesticide Use* is defined as any pesticide use which the Director (Ill. Dept. of Agriculture or his or her authorized representative) determines, subsequent to public hearing, that an additional restriction for that use is needed to prevent unreasonable adverse effects. Id. at 60/4 36.

<sup>5</sup> Different requirements pertain to the notices in the Structural Pest Control Act (225 ILCS 235/10.3) and the Lawn Care Products Application and Notice Act (415 ILCS 65/3(f)). Both require notice to parents/guardians. Notice to employees is only required by the Structural Pest Control Act. For the sake of simplicity, the sample policy requires notice to employees before pesticides are used. Notice at least four business days before application is required by Lawn Care Products Application and Notice Act; notice at least two business days is required by the Structural Pest Control Act; and the Illinois Pesticide Act (415 ILCS 60/14 3.F., amended by P.A. 102-548) makes it unlawful to apply a restricted use pesticide on or within 500 feet of school property during normal hours, except for whole structure fumigation, and if the pesticide application information listed on the pesticide label is more restrictive than the law, then the more restrictive provision applies.

If a registry is maintained, replace the last sentence with this alternative:

The Superintendent or designee shall maintain a registry of employees and parents/guardians of students requesting notification before the application of pesticide(s) and notify those people as required by the Structural Pest Control Act, 225 ILCS 235/, and the Lawn Care Products Application and Notice Act, 415 ILCS 65/.

Be sure the notice provisions in the policy and its implementing administrative procedure are consistent.

Coal Tar Sealant<sup>6</sup>

~~Beginning on 1-1-23, b~~Before coal tar-based sealant products or high polycyclic aromatic hydrocarbon sealant products are used on District premises, the Superintendent or designee shall notify employees and parents/guardians of students in writing or by telephone as required by the Coal Tar Sealant Disclosure Act.

LEGAL REF.: 105 ILCS 5/10-20.17a; 5/10-20.48.  
29 C.F.R. §1910.1030, Occupational Exposure to Bloodborne Pathogens, as adopted by the Illinois Department of Labor, 56 Ill.Admin.Code §350.700(b).  
29 C.F.R. §1910.1200, Occupational Safety and Health Administration Hazard Communication Standards, as adopted by 820 ILCS 255/1.5, Toxic Substances Disclosure to Employees Act.  
20 ILCS 3130/, Green Buildings Act.  
105 ILCS 135/, Toxic Art Supplies in Schools Act.  
105 ILCS 140/, Green Cleaning School Act.  
[105 ILCS 160/, Pesticide Application at Schools Act.](#)  
225 ILCS 235/, Structural Pest Control Act.  
415 ILCS 60/14, Illinois Pesticide Act.  
415 ILCS 65/, Lawn Care Products Application and Notice Act.  
410 ILCS 170/, Coal Tar Sealant Disclosure Act.  
820 ILCS 255/, Toxic Substances Disclosure to Employees Act. (inoperative)  
23 Ill.Admin.Code §1.330.

CROSS REF.: 4:150 (Facility Management and Building Programs), 4:170 (Safety)

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<sup>6</sup> 410 ILCS 170/~~10~~(a)(1)-(4), added by P.A. 102-242, ~~eff. 1-1-23~~, requires schools to provide written or telephonic notification to employees and parents/guardians of students prior to any application of a coal tar-based sealant product or a high polycyclic aromatic hydrocarbon sealant product. Written notifications must: (1) be included in newsletters, bulletins, calendars, or other correspondence currently published by the district (this is the only prong of written notice that is permissive); (2) be given at least 10 business days before the application and should identify the intended date and location of the application of the coal tar-based sealant product or high polycyclic aromatic hydrocarbon sealant; (3) include the name and telephone contact number for the school or day care center (if the district has one) personnel responsible for the application; and (4) include any health hazards associated with coal tar-based sealant product or high polycyclic aromatic hydrocarbon sealant product, as provided by a corresponding safety data sheet.

Districts may want to include numbers (3) and (4) in their student handbooks. The IPA maintains a handbook service that coordinates with PRESS material, Online Model Student Handbook (MSH), at: [www.ilprincipals.org/msh/](http://www.ilprincipals.org/msh/) [www.ilprincipals.org/resources/model-student-handbook](http://www.ilprincipals.org/resources/model-student-handbook).

## Operational Services

### Safety<sup>1</sup>

#### Safety and Security

All District operations, including the education program, shall be conducted in a manner that will promote the safety and security of everyone on District property or at a District event.<sup>2</sup> The Superintendent or designee shall develop, implement, and maintain a comprehensive safety and security plan that includes, without limitation:

1. An emergency operations and crisis response plan(s) addressing prevention, preparation, response, and recovery for each school;<sup>3</sup>

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<sup>1</sup> State law requires a policy on several topics in this policy and otherwise controls this policy's content. Topics previously assigned to this code number were moved in May 2014 and placed in [sample policies](#) 4:100, *Insurance Management*, and 4:175, *Convicted Child Sex Offender; Screening; Notifications*.

Grants may be available from the Ill. State Board of Education (ISBE) to support school ~~security~~safety improvements, including professional development; safety-related upgrades to school buildings, equipment, and facilities; [additional resources to implement restorative interventions and resolution strategies as alternatives to exclusionary discipline; and crisis response mapping data](#). 105 ILCS 5/2-3.180, 5/2-3.181, and 128/50 (final citation pending), added by P.A. 103-8401-413.

Based upon the recommendation of the Federal Commission on School Safety in 2018 ([www2.ed.gov/documents/school-safety/school-safety-report.pdf](http://www2.ed.gov/documents/school-safety/school-safety-report.pdf)), the U.S. Depts. of Homeland Security, Education, Justice, and Health and Human Services created a central school safety clearinghouse website at: [www.schoolsafety.gov](http://www.schoolsafety.gov), to share actionable recommendations to help schools prevent, protect, mitigate, respond to, and recover from emergency situations. Topics include bullying/cyberbullying, student mental health, school climate, threat assessment, emergency planning, security, recovery, and drills.

<sup>2</sup> This ~~sample~~ end statement should be discussed and altered accordingly before board adoption. Ask: what effect or impact will this statement have on the students and the community?

<sup>3</sup> The term *emergency operations and crisis response plan* is used because federal agencies refer to school *emergency operations plans* and the School Safety Drill Act (105 ILCS 128/) refers to *emergency and crisis response plans*. [105 ILCS 128/50 \(final citation pending\), added by P.A. 103-194, eff. 1-1-24, requires a school building's emergency and crisis response plan, protocol, and procedures to include a plan for local law enforcement to rapidly enter a school building in an emergency.](#)

See administrative procedure 4:170-API, *Comprehensive Safety and Security Plan*. This procedure follows the recommendations in the *Guide for Developing High-Quality School Emergency Operations Plans*, produced by a collaboration of federal agencies in June 2013 at: [www.rems.ed.gov/docs/REMS\\_K-12\\_Guide\\_508.pdf](http://www.rems.ed.gov/docs/REMS_K-12_Guide_508.pdf). The *Guide* informs schools what they *need* to do, not *what* to do. It recommends a process for developing, implementing, and continually refining a school emergency operations plan as well as a discussion of its form, function, and content. See also *The Role of Districts in Developing High-Quality School Emergency Operations Plans: A Companion to the School Guide*, at: [https://rems.ed.gov/docs/District\\_Guide\\_508C.pdf](https://rems.ed.gov/docs/District_Guide_508C.pdf).

ISBE maintains a comprehensive website on school emergency and crisis response planning in compliance with the School Safety Drill Act and Joint Rules of the Office of the State Fire Marshal and ISBE (29 Ill.Admin.Code Part 1500), at [www.isbe.net/Pages/School-Emergency-and-Crisis-Response-Plan-Guide.aspx](http://www.isbe.net/Pages/School-Emergency-and-Crisis-Response-Plan-Guide.aspx). ISBE's website includes a *Sample School Emergency Operations Plan* which aligns with the federal *Guide for Developing High-Quality School Emergency Operations Plans*.

105 ILCS 128/45, ~~added by P.A. 101-455~~, required school districts to implement a threat assessment procedure by 12-6-19, and to establish a threat assessment team by 2-19-20. The threat assessment procedure may be part of a board policy on targeted school violence prevention that includes the creation of a threat assessment team. For more discussion, see [sample](#) policy 4:190, *Targeted School Violence Prevention Program*.

2. Provisions for a coordinated effort with local law enforcement and fire officials, emergency medical services personnel, and the Board Attorney;
3. A school safety drill plan;
4. Instruction in safe bus riding practices;<sup>4</sup> and
5. A clear, rapid, factual, and coordinated system of internal and external communication.

In the event of an emergency that threatens the safety of any person or property, students and staff are encouraged to follow the best practices discussed for their building regarding the use of any available cellular telephones.<sup>5</sup>

### School Safety Drill Plan<sup>6</sup>

During every academic year, each school building that houses school children shall conduct, at a minimum, each of the following in accordance with the School Safety Drill Act (105 ILCS 128/):

1. Three school evacuation drills to address and prepare students and school personnel for fire incidents. One of these three drills shall require the participation of the local fire department or district.
2. One bus evacuation drill.
3. One severe weather and shelter-in-place drill to address and prepare students and school personnel for possible tornado incidents.
4. One law enforcement lockdown drill to address a school shooting incident and to evaluate the preparedness of school personnel and students. This drill shall occur no later than 90 days after the first day of school of each year, and shall require the participation of all school personnel

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105 ILCS 5/10-20.72, ~~added by P.A. 101-548~~, allows school districts to install a door security locking means on a door of a school building to prevent unwanted entry through the door only if the door security locking means is used: (1) by a trained school district employee; (2) during an emergency that threatens the health and safety of students and employees or during an active shooter drill; and (3) when local law enforcement officials and the local fire department have been notified of its installation prior to its use. Id.

<sup>4</sup> Required by 105 ILCS 128/20(b) and 105 ILCS 5/10-20.14(c) for all students. See 4:110-AP3, *School Bus Safety Rules*.

<sup>5</sup> 105 ILCS 5/10-20.28. Consider discussing with local law enforcement what its preference would be and encourage staff and students to follow the recommendation. A wave of 911 cell phone calls can jam phone lines. Student use of cell phones is addressed in 7:190, *Student Behavior*.

625 ILCS 5/12-610.1(e) prohibits wireless telephone use at any time while operating a motor vehicle on a roadway in a school speed zone except for: (1) highway construction or maintenance workers within their work zones; (2) any use for emergency purposes; (3) law enforcement officers or emergency responders performing their duties; (4) a person using a wireless telephone in voice-operated mode with or without use of a headset; (5) a person with technology that uses a single button to initiate or terminate a voice communication, e.g., *HandsFreeLink*®; and (6) a person using an electronic communication device solely to report an emergency and for continued communication with emergency personnel. 625 ILCS 5/12-813.1 limits cell phone use by school bus drivers; see policy 4:110, *Transportation*.

<sup>6</sup> Each of the listed drills is required by the School Safety Drill Act. Each drill's requirements are comprehensively covered in 4:170-AP1, *Comprehensive Safety and Security Plan*. For information about documenting minimum compliance with the School Safety Drill Act, see [www.isbe.net/Pages/School-Emergency-and-Crisis-Response-Plan-Guide.aspx](http://www.isbe.net/Pages/School-Emergency-and-Crisis-Response-Plan-Guide.aspx).

105 ILCS 5/2-3.12(f) authorizes the Ill. State Fire Marshal or a qualified fire official to whom the Ill. State Fire Marshal has delegated his or her authority to conduct an annual fire safety inspection of each school building, provided the inspection is coordinated with the regional superintendent. See also 105 ILCS 5/3-14.21(c) ([inspection of schools](#)) and 23 Ill.Admin.Code §180.300(b) ([annual building and fire safety inspections](#)). To effectively implement this law and ensure the education of students in the district is not disturbed, school officials should discuss with the Ill. State Fire Marshal and regional superintendent whether written notice may be provided to the principal requesting to schedule a mutually agreed upon time.



and students present at school at the time of the drill, except for those exempted by administrators, school support personnel, or a parent/guardian.<sup>7</sup>

### Annual Review

The Board or its designee will annually review each school building's emergency operations and crisis response plan(s), protocols, and procedures, as well as each building's compliance with the school safety drill plan. This annual review shall be in accordance with the School Safety Drill Act (105 ILCS 128/) and the Joint Rules of the Office of the State Fire Marshal and the Ill. State Board of Education (ISBE). 29 Ill.Admin.Code Part 1500.<sup>8</sup>

### Automated External Defibrillator (AED)<sup>9</sup>

The Superintendent or designee shall implement a written plan for responding to medical emergencies at the District's physical fitness facilities in accordance with the Fitness Facility Medical Emergency Preparedness Act and shall file a copy of the plan with the Ill. Dept. of Public Health (IDPH). The plan shall provide for at least one automated external defibrillator (AED) to be available at every physical fitness facility on the premises according to State law requirements.

The District shall have an AED on site as well as a trained AED user: (1) on staff during staffed business hours; and (2) available during activities or events sponsored and conducted or supervised by the District.<sup>10</sup> The Superintendent or designee shall ensure that every AED on the District's premises is

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<sup>7</sup> 105 ILCS 128/20(c), amended by P.A. 102-395. While 105 ILCS 128/20(c) uses both *lockdown drill* and *walk-through lockdown drill*, the terms are synonymous. For brevity, this material uses the term *lockdown drill*. Schools must (1) notify parents/guardians in advance of any lockdown drill that involves student participation, and (2) allow parents/guardians to exempt their child(ren) from participating for any reason. [School administrators and support personnel may, at their discretion, exempt a student from participating in a lockdown drill. 105 ILCS 128/20\(c\)\(4\), added by P.A. 102-395. When deciding whether to exempt a student, such personnel must include the student's individualized education program team or 504 plan team, if any, in the decision. 105 ILCS 128/20\(c\)\(4\), amended by P.A. 103-197, eff. 1-1-24.](#) For students who do not participate in the lockdown drill, districts must provide alternative safety education and instruction related to an active threat or active shooter event. For students who do participate in the lockdown drill, districts must allow them to ask questions related to it.

Law enforcement may only run an active shooter simulation, including simulated gun fire drills, on school days when students are not present. 105 ILCS 128/20(c)(5)-(8), added by P.A. 102-395.

<sup>8</sup> The School Safety Drill Act requires each school board or its designee to conduct one annual meeting at which it reviews each building's emergency and crisis response plan, protocols, and procedures, including procedures regarding the school district's threat assessment team, the efficacy and effects of law enforcement drills, and each building's compliance with the school safety drill plan. 105 ILCS 128/25, amended by P.A. 102-395, and 128/30; 29 Ill.Admin.Code Part 1500. If the board uses a designee, it should preferably be someone other than the District Safety Coordinator to assure an unbiased audit. The statute contains detailed requirements. The board or its designee must: (1) complete a one-page report certifying that the review took place, among other things; (2) send a copy of the report to each participating party; and (3) send a copy of the report to the appropriate Regional Superintendent. 105 ILCS 128/25(c), (d). ISBE's website contains a suggested annual review checklist and a report form to document compliance at: [www.isbe.net/Pages/School-Emergency-and-Crisis-Response-Plan-Guide.aspx](http://www.isbe.net/Pages/School-Emergency-and-Crisis-Response-Plan-Guide.aspx).

<sup>9</sup> Each indoor and outdoor physical fitness facility serving at least 100 individuals must "adopt and implement a written plan for responding to medical emergencies that occur at the facility during the time that the facility is open for use by its members or by the public." 210 ILCS 74/10(a). The facility must file the plan with the Ill. Dept. of Public Health (IDPH). *Id.* In addition, each indoor facility must have at least one AED on the premises, and each outdoor facility must house an AED in a building, if any, that is within 300 feet of the outdoor facility. 210 ILCS 74/15. See the statute and administrative rules for the other numerous mandates: 210 ILCS 74/, Physical Fitness Facility Medical Emergency Preparedness Act; 77 Ill.Admin.Code Part 527, [Physical Fitness Facility Medical Emergency Preparedness Code](#). Also see 4:170-AP6, *Plan for Responding to a Medical Emergency at a Physical Fitness Facility with an AED*.

<sup>10</sup> 77 Ill.Admin.Code §527.600(d), (f).

properly tested and maintained in accordance with rules developed by the IDPH.<sup>11</sup> This policy does not create an obligation to use an AED.

### Carbon Monoxide Alarms <sup>12</sup>

The Superintendent or designee shall implement a plan with the District's local fire officials to:

1. Determine which school buildings to equip with approved *carbon monoxide alarms* or *carbon monoxide detectors*,
2. Locate the required carbon monoxide alarms or carbon monoxide detectors within 20 feet of a carbon monoxide emitting device, and
3. Incorporate carbon monoxide alarm or detector activation procedures into each school building that requires a carbon monoxide alarm or detector. The Superintendent or designee shall ensure each school building annually reviews these procedures.

### Soccer Goal Safety <sup>13</sup>

The Superintendent or designee shall implement the Movable Soccer Goal Safety Act in accordance with the guidance published by the IDPH. Implementation of the Act shall be directed toward improving the safety of movable soccer goals by requiring that they be properly anchored.

### Unsafe School Choice Option <sup>14</sup>

The unsafe school choice option allows students to transfer to another District school or to a public charter school within the District. The unsafe school choice option is available to:

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<sup>11</sup> 210 ILCS 74/15(c); 77 Ill.Admin.Code §527.700.

<sup>12</sup> 105 ILCS 5/10-20.57. *Carbon monoxide detector* and *detector* mean a device having a sensor that responds to carbon monoxide gas and that is connected to an alarm control unit and approved in accordance with rules adopted by the Ill. State Fire Marshal. 105 ILCS 5/10-20.57(a). *Approved carbon monoxide alarm* or *alarm* means a carbon monoxide alarm that complies with all the requirements of the rules and regulations of the Ill. State Fire Marshal, bears the label of a nationally recognized testing laboratory, and complies with the most recent standards of the Underwriters Laboratories or the Canadian Standard Association. 430 ILCS 135/5.

**Consult both the board attorney and the local fire officials about whether a school building is exempt from this law.** Remove this subhead if the board attorney determines that every building across the entire school district is exempt. The law applies to school buildings that have or are close to any *sources of carbon monoxide*; however, it does not specifically define what that means. 430 ILCS 135/20 defines exemptions for residential units and may provide guidance on the exemption for schools. The law also fails to define *carbon monoxide emitting device*, which triggers the placement point in a school building for a carbon monoxide alarm or carbon monoxide detector.

<sup>13</sup> Include this section **only if** the school district owns and controls a movable soccer goal Movable Soccer Goal Safety Act, *a/k/a Zach's Law*, 430 ILCS 145/. The Act requires: (1) organizations that own and control a movable soccer goal to create a soccer goal safety and education policy that outlines how the organization will specifically address the safety issues associated with movable soccer goals; and (2) the IDPH to provide technical assistance materials. 430 ILCS 145/10, 20. See [www.dph.illinois.gov/topics-services/prevention-wellness/injury-violence-prevention/soccer-goal-safety](http://www.dph.illinois.gov/topics-services/prevention-wellness/injury-violence-prevention/soccer-goal-safety).

<sup>14</sup> This topic must be covered in board policy. 105 ILCS 5/10-21.3a. See also 20 U.S.C. §7912 ([unsafe school choice option](#)). ISBE maintains a list of persistently dangerous schools. Districts having only one school may substitute the following for this paragraph:

The unsafe school choice option provided in State law permits students to transfer to another school within the District in certain situations. This transfer option is unavailable in this District because the District has only one school or attendance center. A student, who would otherwise have qualified for the choice option, or such a student's parent/guardian, may request special accommodations from the Superintendent or designee.

Districts with each grade in only one attendance center may substitute the following for this paragraph:

1. All students attending a persistently dangerous school, as defined by State law and identified by the ISBE.
2. Any student who is a victim of a violent criminal offense, as defined by 725 ILCS 120/3, that occurred on school grounds during regular school hours or during a school-sponsored event.

The Superintendent or designee shall develop procedures to implement the unsafe school choice option.

### Lead Testing in Water <sup>15</sup>

The Superintendent or designee shall implement testing for lead in each source of drinking water in school buildings in accordance with the Ill. Plumbing License Law and guidance published by the IDPH.<sup>16</sup> The Superintendent or designee shall notify parent(s)/guardian(s) about the sampling results from their children’s respective school buildings. <sup>17</sup>

### Emergency Closing

The Superintendent is authorized to close school(s) in the event of hazardous weather or other emergency that threatens the safety of students, staff members, or school property. <sup>18</sup>

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The unsafe school choice option provided in State law permits students to transfer to another school within the District in certain situations. This transfer option is unavailable in this District because each grade is in only one attendance center. A student, who would otherwise have qualified for the choice option, or such a student’s parent/guardian, may request special accommodations from the Superintendent or designee.

<sup>15</sup> 225 ILCS 320/35.5. Requires that each source of potable water in school buildings constructed on or before 1-1-00, which may be occupied by more than 10 children in grades pre-K through 5, be tested for lead. Testing for buildings constructed prior to 1-1-87 must have been conducted by 12-31-17. 225 ILCS 320/35.5(c)(4). Testing for buildings constructed between 1-2-87 and 1-1-00 must have been conducted by 12-31-18. *Id.* By 6-30-19, the IDPH was to determine whether it is necessary and appropriate to require testing for buildings constructed after 1-1-00. 225 ILCS 320/35.5(d). IDPH recommends that all schools constructed in whole or in part from 1-2-00 through 1-4-14 test all sources of potable water for lead. See IDPH’s recommendations at: [www.isbe.net/Documents/Improving-Water-Quality-Illinois-Schools.pdf](http://www.isbe.net/Documents/Improving-Water-Quality-Illinois-Schools.pdf). For high school districts, delete this subhead if no lead testing occurs.

Boards may, by resolution, use excess taxes levied for fire prevention, safety, energy conservation, and school security purposes for sampling lead in drinking water in schools and for repair and mitigation due to lead levels in the drinking water supply. 105 ILCS 5/17-2.11(j)(1).

<sup>16</sup> 225 ILCS 320/35.5(e) requires the IDPH to post on its website guidance on mitigation actions for lead in drinking water, and ongoing water management practices, in schools. ~~On 5-9-17, the IDPH posted~~ *See Mitigation Strategies for Lead Found in School Drinking Water* at: [www.dph.illinois.gov/sites/default/files/publications/school-lead-mitigation-strategies-050917.pdf](http://www.dph.illinois.gov/sites/default/files/publications/school-lead-mitigation-strategies-050917.pdf) <https://dph.illinois.gov/content/dam/soi/en/web/idph/files/publications/school-lead-mitigation-strategies-050917.pdf>. ~~Note: Page 2 of Mitigation Strategies states “IDPH is requiring the mitigation strategies and requirements contained in this guidance document to be followed for all plumbing fixtures identified with any level of lead,” however the statute does not authorize the IDPH to impose such additional requirements.~~

<sup>17</sup> If any samples taken in the school exceed five parts per billion, a district must provide individual notification of sampling results, via written or electronic communication, to parents/guardians of all enrolled students that must include: (1) the corresponding sampling location within the school building; and (2) the U.S. Environmental Protection Agency’s website for information about lead in drinking water at: [www.epa.gov/ground-water-and-drinking-water/basic-information-about-lead-drinking-water](http://www.epa.gov/ground-water-and-drinking-water/basic-information-about-lead-drinking-water). 225 ILCS 320/35.5(c)(3). If any samples taken in the school are at or below five parts per billion, notification may be made in the same manner or by posting on the school’s website. *Id.*

<sup>18</sup> When a school is closed or its starting time is delayed due to adverse weather conditions or a health or safety threat, the district may count a partial day of attendance as a full day for State aid purposes, provided: (1) at least one hour of instruction was provided or the normal start time was delayed; and (2) the superintendent provides the Regional Superintendent or the Suburban Cook County Intermediate Service Center, whichever is appropriate, with a written report in support of the partial day within 30 days. 105 ILCS 5/18-12.

105 ILCS 5/18-12.5 governs claiming State aid if a district closes one or more schools, but not all schools, during the public health emergency, as determined by ISBE in consultation with the IDPH.

LEGAL REF.: 105 ILCS 5/10-20.2, 5/10-20.57, 5/18-12, and 5/18-12.5.  
105 ILCS 128/, School Safety Drill Act; 29 Ill.Admin.Code Part 1500.  
210 ILCS 74/, Physical Fitness Facility Medical Emergency Preparedness Act.  
225 ILCS 320/35.5, Ill. Plumbing License Law.

CROSS REF.: 4:110 (Transportation), 4:175 (Convicted Child Sex Offender; Screening; Notifications), 4:180 (Pandemic Preparedness; Management; and Recovery), [4:190 \(Targeted School Violence Prevention Program\)](#), 5:30 (Hiring Process and Criteria), 8:30 (Visitors to and Conduct on School Property), 8:100 (Relations with Other Organizations and Agencies)

## General Personnel

### Hiring Process and Criteria <sup>1</sup>

The District hires the most qualified personnel consistent with budget and staffing requirements and in compliance with School Board policy on equal employment opportunity and minority recruitment.<sup>2</sup> The Superintendent is responsible for recruiting personnel and making hiring recommendations to the Board.<sup>3</sup> If the Superintendent's recommendation is rejected, the Superintendent must submit another.<sup>4</sup> No individual will be employed who has been convicted of a criminal offense listed in 105 ILCS 5/21B-80(c).<sup>5</sup>

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>1</sup> State or federal law controls this policy's content. This policy contains an item on which impact bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

<sup>2</sup> See [sample](#) policy 5:10, *Equal Employment Opportunity and Minority Recruitment*. Districts may not classify a job as either a *male* or *female* job. 29 C.F.R. §1604.5, 34 C.F.R. §106.55.

[105 ILCS 5/22-95, amended by PA 103-46, eff. 1-1-24, requires school districts, when hiring or assigning educators for physical education, music, or visual arts, to prioritize the hiring or assigning of educators who hold an educator license and endorsement in those areas.](#)

<sup>3</sup> Boards must consider the superintendent's recommendations concerning, among other things, "the selection, retention, and dismissal of employees." 105 ILCS 5/10-16.7. The board may want to use this alternative sentence:

All personnel decisions are made by the Board, but only on the recommendation of the Superintendent.

~~Subject to an applicable collective bargaining agreement in effect on 6-13-11, a~~ board that fills a "new or vacant teaching position" must select a candidate based on: (1) certifications, (2) qualifications, (3) merit and ability (including performance evaluation, if available), and (4) relevant experience, provided that the length of continuing service with the district must not be considered a factor, unless all other factors are determined by the school district to be equal. 105 ILCS 5/24-1.5. The statute does not define "new or vacant teaching positions." The requirement does not apply to filling vacant positions under 105 ILCS 5/24-12 (reduction in force and recall). Consult the board attorney about these issues.

[The Equal Pay Act of 2003, 820 ILCS 112/10\(b-25\), added by P.A. 103-539, eff. 1-1-25, makes it unlawful for employers with 15 or more employees to fail to include the "pay scale and benefits" for a position in any specific job posting. "Pay scale and benefits" means the wage or salary, or the wage or salary range, and a general description of benefits and other compensation. Id. at 112/5, amended by P.A. 103-539, eff. 1-1-25. To satisfy the posting requirement, an employer can include a hyperlink to a public webpage that includes the pay scale and benefit information. Id. at 112/10\(b-25\), added by P.A. 103-539, eff. 1-1-25. If an employer uses a third party to post its job postings, then the employer must provide the pay scale and benefits or a hyperlink containing the information to the third party. Id. The Act also requires employers to inform current employees of promotion opportunities within 14 calendar days after the employer posts externally for the position. Id. Employers are not prohibited from asking applicants about their wage or salary expectations for a position. Id.](#)

<sup>4</sup> An additional optional sentence follows:

The Superintendent may select personnel on a short-term basis for a specific project or emergency condition before the Board's approval.

<sup>5</sup> 775 ILCS 5/2-103.1 prohibits employers from using conviction records as a basis to refuse to hire or to take any adverse action against an applicant or employee unless: (1) otherwise authorized by law; (2) there is a *substantial relationship* between the criminal offense and the employment sought; or (3) granting the employment would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public. For the disqualifying offenses listed in 105 ILCS 5/21B-80, amended by P.A. 102-552, a district does not have to show a *substantial relationship* between the offense and the position or that hiring or continuing to employ the person would involve an unreasonable risk. However, the Ill. Dept. of Human Rights (IDHR) interprets the Ill. Human Rights Act (IHRA) to still require the employer to notify the applicant of the disqualification pursuant to law and to afford the applicant at least five business days to respond in case the applicant wants to dispute the accuracy of the conviction record. [Id.](#) at 5/2-103.1(C). See IDHR's *Conviction Record Protection – Frequently Asked Questions* (March 2021), at:

All applicants must complete a District application in order to be considered for employment. <sup>6</sup>

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<https://dhr.illinois.gov/conviction-record-protection-frequently-asked-questions.html>.

Attorneys have different opinions as to whether the IHRA requires the *interactive assessment* outlined in 775 ILCS 5/2-103.1(c), which includes preliminary and final notices, when a disqualifying offense listed in 105 ILCS 5/21B-80 is found in a conviction record; **consult the board attorney for guidance on this issue**. See [sample](#) administrative procedure 5:30-AP2, *Investigations*, and its footnotes for more detail regarding the IHRA notice provisions and the need for districts to also comply with the seven-day notification requirement in the Ill. Uniform Conviction Information Act, 20 ILCS 2635/7. **Note:** The protections of 775 ILCS 5/2-103.1 do not cover *unpaid interns*, which may include student teachers in the K-12 context. The definition of *employee* in the IHRA only extends to include unpaid interns for civil rights violations involving sexual harassment. 775 ILCS 5/2-101(A)(1)(c) and 5/2-102(D).

105 ILCS 5/10-21.9(c); 105 ILCS 5/21B-80, amended by P.A. 102-552, allows individuals with criminal histories involving certain drug convictions to apply for or to reinstate their educator licenses seven years after their sentence for the criminal offense is completed. Consult the board attorney about whether the board wants to continue prohibiting employment for any individual who has a criminal history involving these exempted drug offenses.

For more discussion regarding criminal history records checks and screenings required by 105 ILCS 5/10-21.9, amended by P.A.s 102-552 and 102-702, ~~eff. 7-1-23~~, see f/ns 5 and 6 in [sample](#) policy 4:175, *Convicted Child Sex Offender; Screening; Notifications*.

<sup>6</sup> Any person who applies for employment as a teacher, principal, superintendent, or other certificated employee who willfully makes a false statement on his or her application for employment, material to his or her qualifications for employment, which he or she does not believe to be true, is guilty of a Class A misdemeanor. 105 ILCS 5/22-6.5. District employment applications must contain a statement to this effect. *Id.* Each employment application for these positions must state the following (*Id.*):

Failure to provide requested employment or employer history which is material to the applicant's qualifications for employment or the provision of statements which the applicant does not believe to be true may be a Class A misdemeanor.

Many districts ask applicants about disqualifying criminal convictions on their employment applications or at another point before a job offer is made. State law does not expressly prohibit this practice; however, guidance issued by IDHR regarding implementation of 775 ILCS 5/1-103(G-5) and 5/2-103.1 states “[u]nless authorized by law, an employer is prohibited from inquiring about an applicant’s conviction record prior to making a job offer to the applicant.” See *Conviction Record Protection – Frequently Asked Questions* guidance issued by IDHR (March 2021), at:

<https://dhr.illinois.gov/conviction-record-protection-frequently-asked-questions.html>.

While the School Code and Job Opportunities for Qualified Applicant Act do not prohibit districts from asking about disqualifying convictions before a job offer is made, it is unclear whether they affirmatively *authorize* such inquiries. The IDHR’s guidance does not carry the force of law, but it may impact its handling of a discrimination charge based on a conviction record. It is also unclear if an applicant’s mere disclosure of a disqualifying conviction on an application, absent results of a fingerprint-based criminal history records check, Ill. Sex Offender Registry check, or Violent Offender Against Youth Registry check, triggers the district’s obligation to provide notice to the applicant under 775 ILCS 5/2-103.1(C); see also f/n 5, above. Consult the board attorney for advice on these issues and how they may affect application processes.

Any employer that asks applicants to record video interviews and uses an artificial intelligence (AI) analysis of the applicant-submitted videos must comply with the Artificial Intelligence Video Interview Act, 820 ILCS 42/. Employers should also be careful that use of AI, software, and algorithms to assess applicants does not violate the Americans with Disabilities Act (ADA) (42 U.S.C. §12101 *et seq.*). See [EEOC technical assistance documents, The Americans with Disabilities Act and the Use of Software, Algorithms, and Artificial Intelligence to Assess Job Applicants and Employees \(May 2022\)](#), at: [www.eeoc.gov/laws/guidance/americans-disabilities-act-and-use-software-algorithms-and-artificial-intelligence-and-Select-Issues-Assessing-Adverse-Impact-in-Software-Algorithms-and-Artificial-Intelligence-Use-in-Employment-Selection-Procedures-Under-Title-VII-of-the-Civil-Rights-Act-of-1964-\(May-2023\)](http://www.eeoc.gov/laws/guidance/americans-disabilities-act-and-use-software-algorithms-and-artificial-intelligence-and-Select-Issues-Assessing-Adverse-Impact-in-Software-Algorithms-and-Artificial-Intelligence-Use-in-Employment-Selection-Procedures-Under-Title-VII-of-the-Civil-Rights-Act-of-1964-(May-2023)), at: [www.eeoc.gov/select-issues-assessing-adverse-impact-software-algorithms-and-artificial-intelligence-used-technical-assistance-document-issued-by-the-U.S.-Equal-Employment-Opportunity-Commission-\(May-2022\)](http://www.eeoc.gov/select-issues-assessing-adverse-impact-software-algorithms-and-artificial-intelligence-used-technical-assistance-document-issued-by-the-U.S.-Equal-Employment-Opportunity-Commission-(May-2022)) at: [www.eeoc.gov/laws/guidance/americans-disabilities-act-and-use-software-algorithms-and-artificial-intelligence](http://www.eeoc.gov/laws/guidance/americans-disabilities-act-and-use-software-algorithms-and-artificial-intelligence). Given the rapidly changing technologies in this area, please consult the board attorney.

## Job Descriptions

The Board maintains the Superintendent's job description and directs, through policy, the Superintendent, in his or her charge of the District's administration. <sup>7</sup>

The Superintendent shall develop and maintain a current comprehensive job description for each position or job category; however, a provision in a collective bargaining agreement or individual contract will control in the event of a conflict. <sup>8</sup>

## Investigations

The Superintendent or designee shall ensure that a fingerprint-based criminal history records check and a check of the Statewide Sex Offender Database and Violent Offender Against Youth Database is performed on each applicant as required by State law.<sup>9</sup> When the applicant is a successful superintendent candidate who has been offered employment by the Board, the Board President shall

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<sup>7</sup> 105 ILCS 5/10-16.7. The foundation for a productive employment relationship begins with a board's policy, a thoughtfully crafted employment contract and job description, and procedures for communications and ongoing assessment. See IASB's *Foundational Principles of Effective Governance*, **Principle 3. The board employs a superintendent**, at: [www.iasb.com/conference-training-and-events/training/training-resources/foundational-principles-of-effective-governance/](http://www.iasb.com/conference-training-and-events/training/training-resources/foundational-principles-of-effective-governance/).

See also [sample exhibit 3:40-E](#), *Checklist for the Superintendent Employment Contract Negotiation Process*, for best practice discussions about establishing the board-superintendent employment relationship and contract.

<sup>8</sup> Job descriptions will become the basis for categorizing a teacher into one or more positions that the teacher is qualified to hold for reduction in force (RIF) dismissal and recall purposes. 105 ILCS 5/24-12(b). A board should consult with its attorney to review its current list of job descriptions and discuss the district's specific responsibilities.

A job description is evidence of a position's essential functions. 29 C.F.R. §1630.2(n). The ADA protects individuals who have a disability and are qualified, with reasonable accommodation, to perform the *essential functions* of the job. 42 U.S.C. §12101 *et seq.*, amended by the ADA Amendments Act (ADAAA), Pub. L. 110-325. Determining which functions are essential may be critical to determining if an individual with a disability is qualified. An individual is qualified to perform a job even though he or she is unable, due to a disability, to perform tasks which are incidental to the job. Only when an individual is unable to perform the *essential functions* of a job may a district deny the individual employment opportunities. 29 C.F.R. §1630.2(m). For a definition of essential functions see *Id.* at 1630.2(n). Whether a particular function is essential is a factual determination.

**Important:** The ADAAA made significant changes to the ADA's definition of disability that broadened the scope of coverage and overturned a series of U.S. Supreme Court decisions that made it difficult to prove that an impairment was a qualifying disability. There is information about the regulations and a link to them at: [www.eeoc.gov/laws/guidance/fact-sheet-eeocs-final-regulations-implementing-adaaa](http://www.eeoc.gov/laws/guidance/fact-sheet-eeocs-final-regulations-implementing-adaaa)[www.eeoc.gov/laws/regulations/adaaa-fact-sheet.cfm](http://www.eeoc.gov/laws/regulations/adaaa-fact-sheet.cfm). Consult the board attorney regarding how these amendments impact the district's hiring processes.

<sup>9</sup> The policy's requirements on criminal records checks for applicants for employment are mandated by 105 ILCS 5/10-21.9, amended by P.A.s 102-552 and 102-702, ~~eff. 7-1-23~~. See [sample](#) administrative procedure 5:30-AP2, *Investigations*, for the process, timing, and positions requiring criminal background investigation and what steps a district must take if it wants to disqualify an applicant based on a conviction record. The Statewide Sex Offender Database (a/k/a Sex Offender Registry) is available at: <https://isp.illinois.gov/Sor/Disclaimer>. The Statewide Murderer and Violent Offender Against Youth Database is available at: <https://isp.illinois.gov/MVOAY/Disclaimer>. For more discussion regarding criminal history records checks and screenings required by 105 ILCS 5/10-21.9, amended by P.A. 102-702, ~~eff. 7-1-23~~; see f/n 5 in [sample](#) policy 4:175, *Convicted Child Sex Offender; Screening; Notifications*. See [sample](#) policy 4:60, *Purchases and Contracts*, for requirements concerning (1) criminal background checks of employees of contractors who have *direct, daily contact* with students and (2) sexual misconduct related employment history reviews (EHRs) of employees of contractors of have *direct contact with children or students*.

ensure that these checks are completed.<sup>10</sup> The Superintendent or designee, or if the applicant is a successful superintendent candidate, then the Board President shall notify an applicant if the applicant is identified in either database.<sup>11</sup> The School Code requires the Board President to keep a conviction record confidential and share it only with the Superintendent, Regional Superintendent, State Superintendent, State Educator Preparation and Licensure Board, any other person necessary to the hiring decision, the Ill. State Police and/or Statewide Sex Offender Database for purposes of clarifying the information, and/or the Teachers' Retirement System of the State of Illinois when required by law.<sup>12</sup> The Board reserves its right to authorize additional background inquiries beyond a fingerprint-based criminal history records check when it deems it appropriate to do so, in accordance with applicable laws.

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<sup>10</sup> *Id.* If a board wants to require additional background inquiries beyond the fingerprint-based criminal history records information check required by 105 ILCS 5/10-21.9, amended by P.A.s 102-552 and 102-702, ~~eff. 7-1-23~~, and the EHR required by 105 ILCS 5/22-94, added by P.A. 102-702, ~~eff. 7-1-23~~, including the federal *Rap Back Service* (20 ILCS 2630/3.3) and/or checks through consumer reporting agencies regulated by the Fair Credit Reporting Act (15 U.S.C. §1681 *et seq.*), consult the board attorney. For more detailed information, see the laws listed in sample exhibit 3:40-E, *Checklist for the Superintendent Employment Contract Negotiation Process*, under the checklist item entitled **Conditions of Employment**, in the **Other Background Check Laws** row.

<sup>11</sup> 105 ILCS 5/10-21.9(b) and 105 ILCS 5/21B-10. The School Code requires the board president to keep a conviction record confidential. It is impossible to know whether a fingerprint-based criminal history records check and a check of the Statewide Sex Offender and Violent Offender Against Youth Databases on a successful superintendent candidate will come back with a conviction record.

Therefore, in accordance with best practice (ensuring compliance and aligning with good governance principles), this policy does not assign a designee for the board president to complete this task. However, to balance the requirement to keep conviction records confidential with the practical implementation of ensuring a fingerprint-based criminal history records check and a check of the Statewide Sex Offender and Violent Offender Against Youth Databases are performed on each successful superintendent applicant, a board president may want to designate the duty to order these checks to the individuals otherwise listed in 105 ILCS 5/10-21.9(b). Those individuals include the board president, the superintendent or designee, regional superintendent (if the check was requested by the district), state superintendent of education, state Educator Preparation and Licensure Board, any other person necessary to the hiring decision, or for clarification purposes, the Ill. State Police and/or Statewide Sex Offender Registry.

<sup>12</sup> *Id.* at 5/10-21.9(b) and 105 ILCS 5/21B-85, amended by P.A. 102-552. The School Code continues to define the board president's role in conducting criminal background investigations and receiving the results of these investigations, including the results for employees of district contractors. 105 ILCS 5/10-21.9. Many districts delegate this task in the hiring process to a human resources department.

105 ILCS 5/21B-85, amended by P.A. 102-552, requires a board to provide prompt written notice to the board of trustees of the Teachers' Retirement System of the State of Illinois (TRS) when it learns that any teacher has been convicted of a felony offense (which provides for a sentence of death or imprisonment for one year or more). The notice to TRS is limited to (1) the name of the license holder, (2) fact of conviction, (3) name and location of the court in which the conviction occurred, and (4) the assigned case number from the court. *Id.*

Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center Executive Director."

For more discussion regarding responses to results obtained by criminal history records checks and screenings as required by 105 ILCS 5/10-21.9(e), amended by P.A. 102-702, ~~eff. 7-1-23~~, see f/n 6 in [sample](#) policy 4:175, *Convicted Child Sex Offender; Screening; Notifications*.



Each newly hired employee must complete a U.S. Citizenship and Immigration Services Form as required by federal law. <sup>13</sup>

The District retains the right to discharge any employee whose criminal background investigation reveals a conviction for committing or attempting to commit any of the offenses outlined in 105 ILCS 5/21B-80<sup>14</sup> or who falsifies, or omits facts from, his or her employment application or other employment documents. If an indicated finding of abuse or neglect of a child has been issued by the Ill. Department of Children and Family Services or by a child welfare agency of another jurisdiction for any applicant for student teaching, applicant for employment, or any District employee, then the Board must consider that person's status as a condition of employment. <sup>15</sup>

The Superintendent shall ensure that the District does not engage in any investigation or inquiry prohibited by law and complies with each of the following: <sup>16</sup>

1. The District uses an applicant's credit history or report from a consumer reporting agency only when a satisfactory credit history is an established bona fide occupational requirement of a particular position. <sup>17</sup>
2. The District does not screen applicants based on their current or prior wages or salary histories, including benefits or other compensation, by requiring that the wage or salary history satisfy minimum or maximum criteria. <sup>18</sup>
3. The District does not request or require a wage or salary history as a condition of being considered for employment, being interviewed, continuing to be considered for an offer of employment, an offer of employment, or an offer of compensation. <sup>19</sup>

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<sup>13</sup> Immigration Reform and Control Act, 8 U.S.C. §1324a *et seq.* Consult with the board attorney regarding the district's rights and responsibilities under all Illinois laws if the district uses any electronic employment verification system, including *E-Verify* and/or the Basic Pilot Program. 820 ILCS 55/12. This statute urges employers who voluntarily use *E-Verify* (formerly known as the Basic Pilot/Employment Eligibility Verification Program) to consult the Ill. Dept. of Labor's website for current information on the accuracy of *E-Verify* and to review and understand their legal responsibilities relating to the use of any electronic employment verification systems. See f/n 2 in [sample administrative procedure](#) 5:150-AP, *Personnel Records*, for a more detailed discussion of *E-Verify* issues.

<sup>14</sup> See f/n 5, above.

<sup>15</sup> 105 ILCS 5/10-21.9(c) and (g). See f/n 6 in [sample policy](#) 4:175, *Convicted Child Sex Offender; Screening; Notifications*, for further discussion.

<sup>16</sup> As an alternative to describing the prohibited investigations, a board may substitute this sentence:

The Superintendent shall ensure that the District does not engage in any investigation or inquiry prohibited by law, including without limitation, investigation into or inquiry concerning: (1) credit history or report unless a satisfactory credit history is an established bona fide occupational requirement of a particular position; (2) claim(s) made or benefit(s) received under Workers' Compensation Act; and (3) access to an employee's or applicant's social networking website, including a request for passwords to such sites.

The default policy provision and the alternative stated above – whichever is selected – may be made a prohibition rather than a duty of the superintendent; to do this, delete the stricken text as follows: “~~The Superintendent shall ensure that the District does not engage~~”

<sup>17</sup> Employee Credit Privacy Act, 820 ILCS 70/10. This Act allows inquiries into an applicant's credit history or credit report or ordering or obtaining an applicant's credit report from a consumer reporting agency when a satisfactory credit history is an *established bona fide occupational requirement* of a particular position. The Act identifies circumstances that permit a satisfactory credit history to be a job requirement, such as, the position's duties include custody of or unsupervised access to cash or marketable assets valued at \$2,500 or more.

<sup>18</sup> 820 ILCS 112/10(b-5). If an employer violates this subsection, the employee may recover in a civil action any damages incurred, special damages up to \$10,000, injunctive relief, and costs and reasonable attorney's fees. 820 ILCS 112/30(a-5).

<sup>19</sup> [Id. at 112/10\(b-5\).](#)

4. The District does not request or require an applicant to disclose wage or salary history as a condition of employment. <sup>20</sup>
5. The District does not ask an applicant or applicant's current or previous employers about wage or salary history, including benefits or other compensation. <sup>21</sup>
6. The District does not ask an applicant or applicant's previous employers about claim(s) made or benefit(s) received under the Workers' Compensation Act. <sup>22</sup>
7. The District does not request of an applicant or employee access in any manner to his or her personal online account, such as social networking websites, including a request for passwords to such accounts. <sup>23</sup>
8. The District provides equal employment opportunities to all persons. See policy 5:10, *Equal Employment Opportunity and Minority Recruitment*.

Sexual Misconduct Related Employment History Review (EHR) <sup>24</sup>

Prior to hiring an applicant for a position involving *direct contact with children or students*, the Superintendent shall ensure that an EHR is performed as required by State law. When the applicant is

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<sup>20</sup> Id.

<sup>21</sup> 820 ILCS 112/10(b-10). **Note:** Attorneys caution that using the exceptions in 820 ILCS 112/10(b-10)(1) and (2) may trigger litigation. Violating this subsection entitles an employee to recover in a civil action any damages incurred, special damages up to \$10,000, injunctive relief, and costs and reasonable attorney's fees. 820 ILCS 112/30(a-5).

A school board that wishes to preserve these exceptions should consult its board attorney; then they may supplement number 5 by adding the following after "compensation":

unless the applicant's wage or salary history is a matter of public record, or is contained in a document completed by the applicant's current or former employer and then made available to the public by the employer, or then submitted or posted by the employer to comply with State or federal law; or the applicant is a current employee applying for a position with the same current employer.

<sup>22</sup> Right to Privacy in the Workplace Act, 820 ILCS 55/10(a).

<sup>23</sup> Id. at 55/10(b)(~~6~~)(B) (commonly known as the *Facebook Password Law*). A *personal online account* is defined as an online account used primarily by a person for personal purposes. *Personal online account* does not include an account created, maintained, used, or accessed for the business purpose of a person's employer or prospective employer. Id. at 55/10(b)(~~6~~)(5). Bracketed explanations follow the statutory language in 105 ILCS 55/10(b)(5):

"Nothing in this subsection shall prohibit or restrict an employer from complying with a duty to screen employees or applicants prior to hiring...provided that the password, account information, or access sought by the employer only relates to an online account that:

(A) an employer supplies or pays; or

(B) an employee creates or maintains on behalf of under the direction of an employer in connection with that employee's employment."

[Based on this explanation, it is implausible that an applicant would have an account, service, or profile for business purposes of a school employer.]

The statute specifically permits an employer to: (1) maintain workplace policies governing the use of the employer's electronic equipment, including policies regarding Internet use, social networking site use, and electronic mail use; and (2) monitor usage of the employer's (district's) electronic equipment and electronic mail. The statute also states that it does *not prohibit* an employer from obtaining information about an applicant or an employee that is in the public domain or that is otherwise obtained in compliance with the statute. Finally, the statute does not apply to all types of personal technology that employees may use to communicate with students or other individuals, such as text messages on a personal phone. Consult the board attorney about these issues.

<sup>24</sup> 105 ILCS 5/22-94, added by P.A. 102-702, ~~eff. 7-1-23~~. See sample administrative procedure 5:30-AP3, *Sexual Misconduct Related Employment History Review (EHR)*, for the process, timing, and positions requiring an EHR. See sample policy 4:60, *Purchases and Contracts*, and sample administrative procedure 4:60-AP4, *Sexual Misconduct Related Employment History Review (EHR) of Contractor Employees*, for EHR requirements for employees of contractors who have *direct contact with children or students*.

a superintendent candidate, the Board President shall ensure that the EHR is initiated before a successful superintendent candidate is offered employment by the Board.

### Physical Examinations <sup>25</sup>

Each new employee must furnish evidence of physical fitness to perform assigned duties and freedom from communicable disease. The physical fitness examination must be performed by a physician licensed in Illinois, or any other state, to practice medicine and surgery in any of its branches, a licensed advanced practice registered nurse, or a licensed physician assistant who has been delegated the authority by his or her supervising physician to perform health examinations. The employee must have the physical examination performed no more than 90 days before submitting evidence of it to the District.

Any employee may be required to have an additional examination by a physician who is licensed in Illinois to practice medicine and surgery in all its branches, a licensed advanced practice registered nurse, or a licensed physician assistant who has been delegated the authority by his or her supervising physician to perform health examinations, if the examination is job-related and consistent with business necessity.<sup>26</sup> The Board will pay the expenses of any such examination.

### Orientation Program

The District's staff will provide an orientation program for new employees to acquaint them with the District's policies and procedures, the school's rules and regulations, and the responsibilities of their position. Before beginning employment, each employee must sign the *Acknowledgement of Mandated Reporter Status* form as provided in policy 5:90, *Abused and Neglected Child Reporting*.

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<sup>25</sup> 105 ILCS 5/24-5. According to this statute, a new or existing employee or substitute teacher employee may be subject to additional health examinations, including tuberculosis screening, as required by rules adopted by the Ill. Dept. of Public Health (IDPH) or by order of a local public health official. The IDPH does not require school employees to be screened for tuberculosis other than workers in child day care and preschool settings. 77 Ill.Admin.Code §696.140(a)(3).

The last sentence of the first paragraph exceeds State law requirements and may be deleted.

Note that while examination by a spiritual leader/practitioner is sufficient for purposes of leaves, the statute does not permit an examination by a spiritual leader/practitioner for initial employment exams. This difference may present a constitutional issue; contact the board attorney for an opinion if an applicant wants to use an examination by a spiritual leader/practitioner.

Federal law limits pre-employment medical inquiries to whether the applicant is able to perform job-related functions; required medical examinations of applicants is forbidden. ADA, 42 U.S.C. §12112(d)(2); see also f/n 8 for an explanation regarding the ADAAA. Districts may condition an employment offer on taking and passing medical inquiries or physical exams, provided that all entering employees in the same classification receive the same conditional offer.

<sup>26</sup> The State law (105 ILCS 5/24-5) allowing boards to require physicals of current employees "from time to time," is superseded by the ADA. 42 U.S.C. §12112(d)(4). The ADA allows medical inquiries of current employees only when they are job-related and consistent with business necessity or part of a voluntary employee wellness program. Id. Districts may deny jobs to individuals with disabilities who pose a direct threat to the health or safety of others in the workplace, provided that a reasonable accommodation would not either eliminate the risk or reduce it to an acceptable level. 42 U.S.C. §12113; 29 C.F.R. §1630.2(r). See f/n 8 for an explanation regarding the ADAAA.

See f/n 25 for a discussion of examinations by spiritual leaders/practitioners.

LEGAL REF.: 42 U.S.C. §12112, Americans with Disabilities Act; 29 C.F.R. Part 1630.  
15 U.S.C. §-1681 et seq., Fair Credit Reporting Act.  
8 U.S.C. §1324a et seq., Immigration Reform and Control Act.  
105 ILCS 5/10-16.7, 5/10-20.7, 5/10-21.4, 5/10-21.9, 5/10-22.34, 5/10-22.34b,  
5/21B-10, 5/21B-80, 5/21B-85, 5/22-6.5, 5/22-94, and 5/24-5.  
20 ILCS 2630/3.3, Criminal Identification Act.  
820 ILCS 55/, Right to Privacy in the Workplace Act.  
820 ILCS 70/, Employee Credit Privacy Act.  
[820 ILCS 112/, Equal Pay Act of 2003.](#)  
Duldulao v. St. Mary of Nazareth Hospital, 136 Ill. App. 3d 763 (1st Dist. 1985),  
aff'd in part and remanded 115 Ill.2d 482 (Ill. 1987).  
Kaiser v. Dixon, 127 Ill. App. 3d 251 (2nd Dist. 1984).  
Molitor v. Chicago Title & Trust Co., 325 Ill. App. 124 (1st Dist. 1945).

CROSS REF.: 2:260 (Uniform Grievance Procedure), 3:50 (Administrative Personnel Other Than  
the Superintendent), 4:60 (Purchases and Contracts), 4:175 (Convicted Child Sex  
Offender; Screening; Notifications), 5:10 (Equal Employment Opportunity and  
Minority Recruitment), 5:40 (Communicable and Chronic Infectious Disease),  
5:90 (Abused and Neglected Child Reporting), 5:120 (Employee Ethics; Code of  
Professional Conduct; and Conflict of Interest), 5:125 (Personal Technology and  
Social Media; Usage and Conduct), 5:220 (Substitute Teachers), 5:280 (Duties and  
Qualifications)

## General Personnel

### Drug- and Alcohol-Free Workplace; E-Cigarette, Tobacco, and Cannabis Prohibition <sup>1</sup>

All District workplaces are drug- and alcohol-free workplaces. <sup>2</sup>

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>1</sup> State or federal law controls this policy's content. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. The Right to Privacy in the Workplace Act (RPWA) allows employers to regulate employees' use of lawful products that impair an employee's ability to perform his or her assigned duties. 820 ILCS 55/5(b), ~~amended by P.A. 101-27~~. The Cannabis Regulation and Tax Act (CRTA), 410 ILCS 705/10-35(a)(8), ~~amended by P.A. 101-593~~, allows penalties issued by employers of law enforcement officers for consumption, possession, sale, purchase, or delivery of cannabis or cannabis-infused substances while on or off-duty to be collectively bargained; districts that employ school resource officers should consult their board attorneys about this provision of the CRTA.

The federal Drug-Free Workplace Act applies only to the specific programs receiving federal funds. 41 U.S.C. §8101 *et seq.* For ease of administration, this policy makes its requirements applicable to all employees to avoid confusion during implementation and to avoid complications when obtaining and maintaining federal funds. The CRTA, 410 ILCS 705/, ~~added by P.A. 101-27 and amended by P.A. 101-593~~, legalized cannabis, but it remains a *Schedule I* (c)(17) controlled substance under federal law, meaning that it has no currently accepted medical use in addition to a high potential for abuse. 21 U.S.C.A. §812 (exempting hemp as defined at 7 U.S.C.A. §1639o). 41 U.S.C. §§8101, 8102 and 8103. While not law, in June 2019, the U.S. House of Representatives, in a voice vote, voted in favor of an amendment to H.R. 3055, which was introduced by Reps. Earl Blumenauer (D-OR), Tom McClintock (R-CA), and Eleanor Holmes Norton (D-D.C.), prohibiting the U.S. Dept. of Justice (DOJ) from interfering with a state's decision to implement laws governing the legalization of cannabis (recreational and medicinal). This marked the first time that either branch of the U.S. Congress has voted to protect state recreational cannabis laws from federal enforcement actions. If the amendment becomes law, it would block the DOJ from using funds to intervene in state and territory cannabis legalization laws. This policy continues to prohibit employees from using cannabis as allowed by the CRTA. See f/n 9, below.

The federal Safe and Drug-Free Schools and Communities Act provides funds, upon application, for drug and violence prevention programs; it does not contain policy mandates. Illinois also has a Drug Free Workplace Act (30 ILCS 580/) that applies to districts with 25 or more employees working under a state contract or a grant of \$5,000 or more.

<sup>2</sup> Replace this sentence with the district's drug- and alcohol- free policy goal(s), if any.

With the passage of the CRTA, 410 ILCS 705/, ~~added by P.A. 101-27 and amended by P.A. 101-593~~, each board and superintendent may wish to engage in a risk-management conversation about the district's drug- and alcohol-free policy enforcement and discipline goals. Enforcement and discipline goals depend upon a board's risk-level tolerance and community expectations. Risk-level-tolerance decisions will depend upon many factors, including, but not limited to: (1) the board attorney's recommendations, (2) the district's budget parameters, if any, for reasonable suspicion training on identification of symptoms of impairment and/or being under the influence, (3) drug testing, and (4) the community's expectations. Answers to the following questions might structure this risk-management conversation:

1. Does the board want to implement a reasonable suspicion program (or any other type of *just cause* provisions in an applicable collective bargaining agreement) to identify employees suspected of being impaired and/or under the influence to enhance its ability to discipline?
2. Does the board want the superintendent to secure training for designated district employees to educate them to identify symptoms of impairment or being under the influence of the substances prohibited in this policy?
3. How does the board want to address employees in positions of leadership, e.g., the superintendent and/or building principal(s), who are perpetually on call due to the nature of their positions and responsibilities (see f/n 3, below)?
4. How will the district manage its duty to educate students about the dangers of drugs and alcohol against the reality that employees are allowed to use lawful products off-duty and off the district's premises (820 ILCS 55/5(~~ab~~); ~~amended by P.A. 101-27~~)?
5. Will licensed educators be held to a higher standard than non-licensed employees due to their professional code of conduct expectations?

All employees are prohibited from engaging in any of the following activities while on District premises or while performing work or being *on call*<sup>3</sup> for the District: <sup>4</sup>

1. Unlawful manufacture, dispensing, distribution, possession, or use of an illegal or controlled substance. <sup>5</sup>
2. Distribution, consumption, use, possession, or being impaired by or under the influence of an alcoholic beverage; being present on District premises or while performing work for the District when alcohol consumption is detectable, regardless of when and/or where the use occurred. <sup>6</sup>
3. Distribution, consumption, possession, use, or being impaired by or under the influence of cannabis; being present on District premises or while performing work for the District when impaired by or under the influence of cannabis, regardless of when and/or where the use occurred, unless distribution, possession, and/or use is by a school nurse or school administrator pursuant to *Ashley's Law*, 105 ILCS 5/22-33.<sup>7</sup> The District considers employees impaired by

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6. Will employees working directly with students be held to a higher standard than employees not working directly with students?

<sup>3</sup> An employee is *on call* when the employer schedules him or her with at least 24 hours' notice to be on standby or otherwise responsible for performing employment-related tasks either at the employer's location or another previously-designated location. 820 ILCS 55/5, ~~amended by P.A. 101-27~~. Consult the board attorney regarding how the board wants to treat employees who may be considered on call, e.g., superintendents, principals, coaches, and/or maintenance workers, etc.

For boards that do not want this text, delete ~~or being on call~~.

<sup>4</sup> To align with best practices for identifying and subsequently initiating discipline of employees for violating this policy (especially with the passage of the CRTA) and any possible collective bargaining agreement provisions, ~~the superintendent may want to convene the~~ **Employee Substance Abuse Prevention Committee** (see [sample administrative procedure 2:150-AP, Superintendent Committees](#)).

<sup>5</sup> These actions are prohibited by both federal (41 U.S.C.A. §§8101, 8102 and 8103) and State Workplace Acts. See f/n 13, below. These laws do not address *under the influence* but a board may add: “, or being impaired by or under the influence of any illegal substance or any detectible use of any illegal substance regardless of when or where the use occurred.” This option is limited to *illegal* substances to avoid prohibiting employees from using lawfully prescribed controlled substances. See f/n 13. Contact the board attorney for advice concerning this provision and whenever the district wants to discipline or dismiss an employee using it. If a hearing is required before the district may discipline or discharge an employee under this provision, the district must put forth evidence that the employee violated it. A district would also have this burden if a grievance is filed under a *just cause* provision in a collective bargaining agreement. This policy's third paragraph addresses prescribed medications other than cannabis.

<sup>6</sup> Optional; alcohol is not addressed in either the federal or State Drug-Free Workplace Acts. Contact the board attorney for advice concerning this provision and whenever the district wants to discipline or dismiss an employee using it. If a hearing is required before the district may discipline or discharge an employee under this provision, the district must put forth evidence that the employee violated it. A district would also have this burden if a grievance is filed under a *just cause* provision in a collective bargaining agreement. The Ill. Court of Appeals held that when the policy defines *under the influence* as any “mental, emotional, sensory or physical **impairment** due to the use of drugs or alcohol,” the school district must prove that the teacher showed signs of impairment even though she registered 0.056 blood-alcohol level on a Breathalyzer. Kinsella v. Bd. of Ed. of the City of Chicago, 27 N.E.3d 226 (Ill. App. Ct. 1st Dist. 2015).

<sup>7</sup> “[R]egardless of when and/or where the use occurred” is intended to mean that an employer may reach an employee's conduct on or off-duty depending upon the facts of the disciplinary situation; however, the CRTA contains a specific requirement that law enforcement employers adopt a policy outlining penalties for discipline of law enforcement employees for their on or off-duty conduct involving consumption, possession, sale, purchase, or delivery of cannabis or cannabis-infused substances. Id. at 10-35(a)(8), ~~amended by P.A. 101-593~~. See also f/ns 1, above, and 9, below. Consult the board attorney if the district employs a school resource officer(s) (SRO(s)) as opposed to contracting with a local law enforcement agency for SRO services.

or under the influence of cannabis when there is a good faith belief that an employee manifests specific articulable symptoms<sup>8</sup> while working that decrease or lessen the employee's performance of the duties or tasks of the employee's job position.<sup>9</sup>

Upon the Superintendent or designee's reasonable suspicion of an employee's violation of any of the prohibited activities stated above, the Superintendent or designee may direct the employee to undergo a drug and/or alcohol test to corroborate or refute the alleged violation. State law protects the District from liability when it takes actions pursuant to a reasonable workplace drug policy, including but not limited to subjecting an employee or applicant to reasonable drug and alcohol testing, reasonable and

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410 ILCS 130/25(b) prohibits discipline or arrest of school nurses and/or administrators for acting in accordance with *Ashley's Law*, 105 ILCS 5/22-33, ~~amended by P.A. 101-370~~. Employers may enforce drug-free workplace policies when they are applied in a nondiscriminatory manner. 410 ILCS 705/10-50(a), ~~added by P.A. 101-27~~, includes disciplining employees – even those who are *registered qualifying patients* – for violating drug-free workplace policies (410 ILCS 130/50 and 705/10-35(a)(1), ~~added by P.A. 101-27~~). Contact the board attorney for advice concerning the Compassionate Use of Medical Cannabis Program Act (Medical Cannabis Program Act (MCPA)).

<sup>8</sup> Specific articulable symptoms listed in 410 ILCS 705/10-50(d), ~~added by P.A. 101-27~~, include: the employee's speech, physical dexterity, agility, coordination, demeanor, irrational or unusual behavior, or negligence or carelessness in operating equipment or machinery; disregard for the safety of the employee or others, or involvement in any accident that results in serious damage to equipment or property; disruption of a production or manufacturing process; or carelessness that results in any injury to the employee or others. In contrast to the CRTA, the MCPA, while listing the same specific, articulable, symptoms, does not require an employer to have a *good faith belief* that a *registered qualifying patient* is under the influence of cannabis. 410 ILCS 130/50(f), ~~and scheduled to be repealed on 7-1-20~~.

<sup>9</sup> 410 ILCS 705/10-35 and 10-50(a), ~~added by P.A. 101-27~~ allows reasonable, nondiscriminatory, zero-tolerance policies. If the district seeks to discipline an employee on the basis that he or she is under the influence of or impaired by cannabis, it must afford the employee a reasonable opportunity to contest the basis of the determination. *Id.* at 10-50(d), ~~added by P.A. 101-27~~. See also f/n 7, above. **Contact the board attorney for advice concerning this provision and whenever the district seeks disciplinary action or dismissal of an employee on the basis of the cannabis prohibitions in the policy.**

See also the Ill. Vehicle Code 625 ILCS 5/11-501.2(b-5) number one: when an individual's tetrahydrocannabinol concentration (THC) is five nanograms or more in whole blood or 10 nanograms or more in another bodily substance, e.g., saliva, urine, etc., as defined in 625 ILCS 5/11-501.2(a), a presumption under Illinois law exists that the individual is under the influence of cannabis. Under 625 ILCS 5/11-501.2(b-5) number two: when an individual's [THC] is less than five nanograms in whole blood or less than 10 nanograms or more in another bodily substance, e.g., saliva, urine, etc., as defined in 625 ILCS 5/11-501.2(a), the individual may still be considered impaired.

In addition to a zero-tolerance policy, the CRTA also allows civil, criminal, or other penalties for:

1. Engaging in tasks under the influence of cannabis when doing so would constitute negligence, professional malpractice, or professional misconduct (410 ILCS 705/10-35(a)(1));
2. Possessing cannabis on a school bus or on school grounds (*Id.* at 10-35(a)(2)(A)-(B) unless permitted under the MCPA);
3. Using cannabis on a school bus or on school grounds (*Id.* at 10-35(a)(3)(A)-(B) unless permitted under the MCPA);
4. [Using cannabis] in a public place [while impaired or under the influence of cannabis] (*Id.* at 10-35(a)(3)(F));
5. Knowingly being [impaired by or under the influences of cannabis] in close physical proximity to anyone under 21 years of age who is not a registered medical cannabis patient under the MCPA (*Id.* at 10-35(a)(3)(G));
6. Smoking [and/or *vaping* (see f/n 19, below for a definition of *vaping*)] it in any place where smoking is prohibited under the Smoke Free Illinois Act (*Id.* at 10-35(a)(4));
7. Using [cannabis] as an on-duty law enforcement officer, corrections officer, probation officer, or firefighter (*Id.* at 10-35(a)(8)), or consuming, possessing, selling, purchasing, or delivering cannabis or a cannabis-infused substance(s) while on or off-duty [only if a policy has been adopted] *Id.* at 10-35(a)(8), ~~amended by P.A. 101-593~~; or
8. [Using cannabis while [b]]eing on duty as an individual holding a school bus permit or Commercial Driver's License (*Id.* at 10-35(a)(9)).

nondiscriminatory random drug testing, discipline, termination of employment, or withdrawal of a job offer due to a failure of a drug test. <sup>10</sup>

For purposes of this policy, a controlled substance means a substance that is:

1. Not legally obtainable,
2. Being used in a manner different than prescribed,
3. Legally obtainable, but has not been legally obtained, or
4. Referenced in federal or State controlled substance acts.

For purposes of this policy, *District premises*<sup>11</sup> means workplace as defined in the Cannabis Regulation and Tax Act (CRTA) in addition to District and school buildings, grounds, and parking areas; vehicles used for school purposes; and any location used for a School Board meeting, school athletic event, or other school-sponsored or school-sanctioned events or activities. School grounds means the real property comprising any school, any conveyance used to transport students to school or a school-related activity, and any public way within 1,000 feet of any school ground, designated school bus stops where students are waiting for the school bus, and school-sponsored or school-sanctioned events or activities. “Vehicles used for school purposes” means school buses or other school vehicles.

As a condition of employment, each employee shall: <sup>12</sup>

1. Abide by the terms of this Board policy respecting a drug- and alcohol-free workplace; and
2. Notify his or her supervisor of his or her conviction under any criminal drug statute for a violation occurring on the District premises or while performing work for the District, no later than five calendar days after such a conviction.

Unless otherwise prohibited by this policy, prescription and over-the-counter medications are not prohibited when taken in standard dosages and/or according to prescriptions from the employee’s licensed health care provider, provided that an employee’s work performance is not impaired. <sup>13</sup>

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<sup>10</sup> 410 ILCS 705/10-50(d). For boards that will not communicate to employees what will happen when reasonable suspicion exists, delete the first sentence of this paragraph: ~~Upon the Superintendent or designee’s reasonable suspicion of an employee’s violation of any of the prohibited activities stated above, the Superintendent or designee may direct the employee to undergo a drug and/or alcohol test to corroborate or refute the alleged violation.~~

410 ILCS 705/10-50(e)(1), ~~amended by P.A. 101-593~~, protects the district from liability for actions described in the last sentence of this paragraph. Delete it if the board will not communicate this information to its employees.

<sup>11</sup> 410 ILCS 705/10-35 and 10-50(a), ~~added by P.A. 101-27 and amended by P.A. 101-593~~, allows employers to prohibit cannabis in the *workplace*. Many attorneys agree it is a best practice for employers to define workplace in policies that prohibit cannabis. 410 ILCS 705/10-50(h), ~~added by P.A. 101-27~~, defines *workplace* as the employer’s premises, including any building, real property, and parking area under the control of the employer or area used by an employee while in performance of the employee’s job duties, and vehicles, whether leased, rented, or owned – and may be further defined by the employer’s written policy when it is consistent with this definition.

This policy’s definition of workplace expands the above CRTA definition to areas that board policy and/or the School Code impose duties upon districts to keep students safe, including:

1. The *school property* definition from [sample](#) policy 8:30, *Visitors to and Conduct on School Property*;
2. The *school grounds* definition at 105 ILCS 5/10-27.1A(d); and
3. Places that school districts must prevent and respond to bullying, including vehicles used for school purposes. 105 ILCS 5/27-23.7(a).

<sup>12</sup> Required by the State and federal Drug-Free Workplace Acts.

<sup>13</sup> This optional paragraph is not addressed in State or federal drug-free workplace acts. An employer should generally not ask an employee about his or her use of medication. See rules implementing the Americans with Disabilities Act, 29 C.F.R. §1630.14. Consult the board attorney if an employee is suspected of working while impaired or under the influence.



To make employees aware of the dangers of drug and alcohol abuse, the Superintendent or designee shall perform each of the following: <sup>14</sup>

1. Provide each employee with a copy of this policy.
2. Post notice of this policy in a place where other information for employees is posted. <sup>15</sup>
3. Make available materials from local, State, and national anti-drug and alcohol-abuse organizations. <sup>16</sup>
4. Enlist the aid of community and State agencies with drug and alcohol informational and rehabilitation programs to provide information to District employees.
5. Establish a drug-free awareness program to inform employees about:
  - a. The dangers of drug abuse in the workplace,
  - b. Available drug and alcohol counseling, rehabilitation, re-entry, and any employee assistance programs, and
  - c. The penalties that the District may impose upon employees for violations of this policy.
6. Remind employees that policy 6:60, *Curriculum Content*, requires the District to educate students, depending upon their grade, about drug and substance abuse prevention and relationships between drugs, alcohol, and violence. <sup>17</sup>

#### E-Cigarette, Tobacco, and Cannabis Prohibition <sup>18</sup>

All employees are covered by the conduct prohibitions contained in policy 8:30, *Visitors to and Conduct on School Property*. The prohibition on the use of e-cigarettes,<sup>19</sup> tobacco, and cannabis

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<sup>14</sup> Numbers one through five in this paragraph are required by the State and federal Drug-Free Workplace Acts. 30 ILCS 580/3.

<sup>15</sup> As an alternative, replace the phrase “in a place where other information for employees is posted” with the district’s local method, e.g., staff intranet, Internet, etc.

<sup>16</sup> Grants may be available from the Ill. State Board of Education for developing a drug-free awareness program. 105 ILCS 5/2-3.93. The drug-free awareness program requirement can be met by developing a brochure on drug abuse or by contacting local, State, or national anti-drug abuse organizations for materials. The materials should be distributed to employees along with a list of places employees may call for assistance.

<sup>17</sup> Optional. This statement serves as a display of good judgement and a reminder to employees that 105 ILCS 5/27-13.2, amended by P.A. [102-195](#) and [103-365](#), and [5/27-23.4](#) (provided it can be funded by private grants or the federal government) require districts to educate students about the prevention and avoidance of drugs abuse, ~~and~~ the dangers of opioid and substance abuse, ~~and the dangers of fentanyl~~.

<sup>18</sup> 105 ILCS 5/10-20.5b, The Smoke Free Illinois Act, 410 ILCS 82/, and the CRTA, 410 ILCS 705/10-35(a)(4)(smoking anyplace where smoking is prohibited under the Smoke Free Illinois Act). Federal law prohibits smoking inside schools. 20 U.S.C. §6083(a).

The prohibition in [sample policy](#) 8:30, *Visitors to and Conduct on School Property*, referred to here, applies “on school property or at a school event.” Here, “at a school event” is clarified with the phrase “while ... performing work for the District” in order to align with this policy’s other prohibitions.

<sup>19</sup> While 720 ILCS 675/~~1~~, ~~amended by P.A. 101-2~~, excludes e-cigarettes from its definition of tobacco, it does not address vaporization. Prohibiting *e-cigarettes* aligns with the district’s obligation to maintain a safe, smoke-free environment and is logical extension of 105 ILCS 5/10-20.5b, The Smoke Free Illinois Act (410 ILCS 82/), and The Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act, 720 ILCS 675, ~~amended by P.A. 101-2~~ ([raising-provides](#) the legal age to buy tobacco and e-cigarette products to 21 years of age). In addition, the U.S. Food and Drug Administration now regulates e-cigarettes. 21 C.F.R. Parts 1100, 1140, and 1143, ~~amended by 81 Fed.Reg.-28973~~.

products applies both (1) when an employee is on school property, and (2) while an employee is performing work for the District at a school event regardless of the event's location.

*Tobacco* has the meaning provided in 105 ILCS 5/10-20.5b.

*Cannabis* has the meaning provided in the CRTA, 410 ILCS 705/1-10.

*E-Cigarette* is short for electronic cigarette and includes, but is not limited to, any electronic nicotine delivery system (ENDS), electronic cigar, electronic cigarillo, electronic pipe, electronic hookah, vape pen, or similar product or device, and any components or parts that can be used to build the product or device. <sup>20</sup>

#### District Action Upon Violation of Policy

An employee who violates this policy may be subject to disciplinary action, including termination. <sup>21</sup> In addition or alternatively, the Board may require an employee to successfully complete an appropriate drug- or alcohol-abuse rehabilitation program.

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E-Cigarettes may resemble cigarettes but contain a battery-operated heating element that turns a liquid into an aerosol (or vapor) that sometimes includes nicotine, flavorings, and other chemicals. The act of inhaling and exhaling the aerosol is known as *vaping*. See [www.eenteronaddiction.org/e-cigarettes/recreational-vaping/what-vaping](http://www.eenteronaddiction.org/e-cigarettes/recreational-vaping/what-vaping) <https://nida.nih.gov/publications/drugfacts/vaping-devices-electronic-cigarettes>. For ease of administration, this policy treats *vaping*, whether tobacco products or not, and smoking tobacco the same due to the outbreaks of lung disease associated with the use of e-cigarettes and vaping. Some e-cigarettes do not look like tobacco products; they are designed to resemble other objects, such as USB flash drives, to be more easily concealed. Like smoking tobacco, vaporization products may include nicotine, which is derived from and is the addictive drug in tobacco, and other potentially harmful chemicals. See *Tobacco/Nicotine and E-Cigs Vaping* at: <https://nida.nih.gov/research-topics/tobacconicotine-vaping> [www.drugabuse.gov/drugs-abuse/tobacconicotine-e-cigs](http://www.drugabuse.gov/drugs-abuse/tobacconicotine-e-cigs). Unlike smoking tobacco, vaping does not produce smoke, but rather the aerosol, often mistaken for water vapor and consisting of fine particles. Many of these particles contain varying amounts of toxic chemicals, which have been linked to cancer and respiratory and heart disease. For resources, see [www.cdc.gov/tobacco/basic\\_information/e-cigarettes/index.htm](http://www.cdc.gov/tobacco/basic_information/e-cigarettes/index.htm) and [https://digitalmedia.hhs.gov/tobacco/educator\\_hub](https://digitalmedia.hhs.gov/tobacco/educator_hub). ~~An outbreak of lung disease has been associated with e-cigarette use and vaping. See articles at: [www.cdc.gov/tobacco/basic\\_information/e-cigarettes/severe\\_lung\\_disease.html](http://www.cdc.gov/tobacco/basic_information/e-cigarettes/severe_lung_disease.html); and [www.cdc.gov/tobacco/basic\\_information/e-cigarettes/severe\\_lung\\_disease/health\\_departments/index.html](http://www.cdc.gov/tobacco/basic_information/e-cigarettes/severe_lung_disease/health_departments/index.html).~~

<sup>20</sup> Optional. If a district does not want to include the statutory example that includes the term *vape pen*, which provides notice that vaping products are also prohibited through the term e-cigarette, replace ~~includes but is not limited to, any electronic nicotine delivery system (ENDS), electronic cigar, electronic cigarillo, electronic pipe, electronic hookah, vape pen, or similar product or device, and any components or parts that can be used to build the product or device~~ with “shall have the meaning provided in the Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act, 720 ILCS 675/1(a-9).”

<sup>21</sup> An employee who currently uses *illegal* drugs is not protected under the Americans With Disabilities Act (ADA) when the district acts on the basis of such use. 42 U.S.C. §12114. Legal drug abusers and alcoholics may still be protected as *handicapped* under the Rehabilitation Act of 1973 (29 U.S.C. §706 *et seq.*) or the Ill. Human Rights Act (IHRA). 775 ILCS 5/1-101 *et seq.* and 56 Ill.Admin.Code §2500.20. The Rehabilitation Act, however, excludes from protection “an alcohol or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment ... would constitute a direct threat to the property or the safety of others.” 28 C.F.R. §42.540(k)(1) 29 U.S.C. §706(7)(B).

The ADA neither authorizes nor prohibits drug testing; it allows the results of such tests to be used as the basis for disciplinary action. 42 U.S.C. §12114; 29 C.F.R. §1630.16-(c). Drug tests may still violate other laws, e.g., Title VI and the Rehabilitation Act. 42 U.S.C. §2000e *et seq.*; and 29 U.S.C. §7016 *et seq.* Drug tests may also be a subject of collective bargaining. See paragraph one of f/n 1, above. Consult the board attorney before implementing a drug testing program to enforce this policy.

The Board shall take disciplinary action with respect to an employee convicted of a drug offense in the workplace within 30 days after receiving notice of the conviction. <sup>22</sup>

Should District employees be engaged in the performance of work under a federal contract or grant, or under a State contract or grant of \$5,000 or more, the Superintendent shall notify the appropriate State or federal agency from which the District receives contract or grant monies of the employee's conviction within 10 days after receiving notice of the conviction. <sup>23</sup>

Disclaimer <sup>24</sup>

The Board reserves the right to interpret, revise or discontinue any provision of this policy pursuant to the **Suspension of Policies** subhead in policy 2:240, *Board Policy Development*.

LEGAL REF.: [20 U.S.C. §7101 et seq., Safe and Drug-Free School and Communities Act of 1994.](#)  
[21 U.S.C. §812, Controlled Substances Act; 21 C.F.R. §1308.11-1308.15.](#)  
[41 U.S.C. §8101 et seq., Drug-Free Workplace Act of 1988.](#)  
42 U.S.C. §12114, Americans With Disabilities Act.  
[21 C.F.R. Parts 1100, 1140, and 1143.](#)  
[21 U.S.C. §812; 21 C.F.R. §1308.11-1308.15, Controlled Substances Act.](#)  
[41 U.S.C. §8101 et seq., Drug-Free Workplace Act of 1988.](#)  
~~[20 U.S.C. §7101 et seq., Safe and Drug-Free School and Communities Act of 1994.](#)~~  
30 ILCS 580/, Drug-Free Workplace Act.  
105 ILCS 5/10-20.5b.  
410 ILCS 82/, Smoke Free Illinois Act.  
410 ILCS 130/, Compassionate Use of Medical Cannabis Program Act.  
410 ILCS 705/1-1 et seq., Cannabis Regulation and Tax Act.  
720 ILCS 675, Prevention of Tobacco Use by Persons under 21 Years of Age and Sale and Distribution of Tobacco Products Act.  
820 ILCS 55/, Right to Privacy in the Workplace Act.  
~~[21 C.F.R. Parts 1100, 1140, and 1143.](#)~~  
23 Ill.Admin.Code §22.20.

CROSS REF.: 5:10 (Equal Employment Opportunity and Minority Recruitment), 5:120 (Employee Ethics; Code of Professional Conduct; and Conflict of Interest), 6:60 (Curriculum Content), 8:30 (Visitors to and Conduct on School Property)

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<sup>22</sup> Required by both the federal and State Drug-Free Workplace Acts.

<sup>23</sup> Id.

<sup>24</sup> Optional best practice text.

## General Personnel

### Abused and Neglected Child Reporting<sup>1</sup>

Any District employee who suspects or receives knowledge that a student may be an abused or neglected<sup>2</sup> child or, for a student aged 18 through 22, an abused or neglected individual with a

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>1</sup> State or federal law controls this policy's content. The Abused and Neglected Child Reporting Act (ANCRA) (325 ILCS 5/) requires *education personnel* to immediately report to DCFS when they have reasonable cause to believe a child known to them in their professional or official capacities may be abused or neglected; *education personnel* includes school personnel (including administrators and certified and non-certified school employees) and educational advocates assigned to a child in accordance with the School Code. 325 ILCS 5/4(a)(4). *Education personnel* also includes board members; however, ANCRA does not require them to directly report to DCFS and instead states that a board member "shall direct or cause the school board to direct the superintendent" to report to DCFS. 325 ILCS 5/4(a)(4), (d). See the **Special School Board Member Responsibilities** subhead, below, and sample policy 2:20, *Powers and Duties of the School Board; Indemnification*.

If the report involves an *adult student with a disability*, employees should expect DCFS to instruct them to call the Ill. Dept. of Human Services Office (DHS) office of the Inspector General's statewide 24-hour toll-free telephone number at 1-800-368-1463. 325 ILCS 5/4.4a and 20 ILCS 1305/1-17(b). Reports involving an adult student with a disability may be made directly to DHS; however, for simplicity, and to preserve a superintendent's duty to disclose certain reports involving an employee or former district employee (see discussion in [fn 1920](#) below) and the immunity for such disclosures, the sample policy directs the initial phone call to DCFS. The Dept. of Human Services Act (DHSA) (20 ILCS 1305/) allows a *required reporter* four hours to report after the initial discovery of the incident, allegation, or suspicion of any one or more of the following: mental abuse, physical abuse, sexual abuse, neglect, or financial exploitation. 20 ILCS 1305/1-17(k)(1). Only employees are required reporters. 20 ILCS 1305/1-17(a).

Any person required by law to report abuse and neglect who willfully fails to report is guilty of a Class A misdemeanor. 325 ILCS 5/4(m) and 20 ILCS 1305/1-17(k)(1).

A teaching license may be suspended or revoked for willful or negligent failure to report suspected child abuse or neglect as required by law and for *sexual misconduct*. 105 ILCS 5/21B-75, amended by P.A.s 102-552 and 102-702, ~~eff. 7-1-23~~.

District employees who make a report in good faith receive immunity, except in cases of willful or wanton misconduct. See 325 ILCS 5/4 and 9. Further, for the purpose of any proceedings, civil or criminal, good faith of the person making the report is presumed. Id.

Every two years, each district within an Illinois county served by an accredited Children's Advocacy Center (CAC) must review its sexual abuse investigation policies and procedures to ensure consistency with 105 ILCS 5/22-85. 105 ILCS 5/10-20.71. See sample policy 7:20, *Harassment of Students Prohibited*.

<sup>2</sup> ANCRA covers abuse and neglect of children. 325 ILCS 5/3. DHSA covers abuse and neglect of adult students with a disability. 20 ILCS 1305/1-17(b). Abuse may be generally understood as any physical or mental injury or sexual abuse inflicted on a child or adult student with a disability other than by accidental means or creation of a risk of such injury or abuse by a person who is responsible for the welfare of a child or adult student with a disability. Neglect may be generally understood as abandoning a child or adult student with a disability or failing to provide the proper support, education, medical, or remedial care required by law by one who is responsible for the child's or adult student with a disability's welfare.

Abuse covered by ANCRA also includes *grooming* as defined in the Ill. Criminal Code of 2012 (720 ILCS 5/11-25). 325 ILCS 5/3(i), added by P.A. 102-676 (a/k/a *Faith's Law*).

The School Code goes further and prohibits school employees from engaging in *grooming behaviors* and *sexual misconduct*. 105 ILCS 5/10-23.13(b), amended by P.A. 102-610 (a/k/a *Erin's Law*); 105 ILCS 5/22-85.5(c), added by P.A. 102-676 (a/k/a *Faith's Law*). To streamline implementation, sample policy 5:120, *Employee Ethics; Code of Professional Conduct; and Conflict of Interest*, defines prohibited *grooming behaviors* to include *sexual misconduct* and it explicitly prohibits employees from engaging in *grooming*, *grooming behaviors*, and *sexual misconduct*. While it is possible for low-level *grooming behaviors* and/or *sexual misconduct* to not amount to *grooming* prohibited by ANCRA, best practice is to report suspected *grooming behaviors* and *sexual misconduct* to DCFS.

disability<sup>3</sup>, shall: (1) immediately report or cause a report to be made to the Ill. Dept. of Children and Family Services (DCFS) on its Child Abuse Hotline 1-800-25-ABUSE (1-800-252-2873)(within Illinois); 1-217-524-2606 (outside of Illinois); or 1-800-358-5117 (TTY), and (2) follow directions given by DCFS concerning filing a written report within 48 hours with the nearest DCFS field office.<sup>4</sup> Any District employee who believes a student is in immediate danger of harm, shall first call 911. The employee shall also promptly notify the Superintendent or Building Principal that a report has been made.<sup>5</sup> The Superintendent or Building Principal shall immediately coordinate any necessary notifications to the student's parent(s)/guardian(s) with DCFS, the applicable school resource officer (SRO), and/or local law enforcement.<sup>6</sup> *Negligent failure to report* occurs when a District employee personally observes an instance of suspected child abuse or neglect and reasonably believes, in his or her professional or official capacity, that the instance constitutes an act of child abuse or neglect under the Abused and Neglected Child Reporting Act (ANCRA) and he or she, without willful intent, fails to immediately report or cause a report to be made of the suspected abuse or neglect to DCFS.<sup>7</sup>

Any District employee who discovers child pornography on electronic and information technology equipment shall immediately report it to local law enforcement, the National Center for Missing and

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<sup>3</sup> State child and disabled adult protection laws define the same class of individuals differently, but with the same goal: to protect an adult student with a disability, not living in a DCFS licensed facility, who is still finishing school with an Individual Education Plan (IEP). The Dept. of Human Services Act (DHS Act) defines "adult student with a disability" as an adult student, age 18 through 21, inclusive (through the day before the student's 22nd birthday), with an IEP other than a resident of a facility licensed by DCFS. 20 ILCS 1305/1-17(b). However, 105 ILCS 5/14-1.02, amended by P.A. 102-172, provides that a student who turns 22 years old during the school year shall be eligible for IEP services through the end of the school year. This statutory definition is the basis for this sample policy's language.

For elementary districts, delete the following phrase from the first sentence: "or, for a student aged 18 through 22, an abused or neglected individual with a disability,."

<sup>4</sup> 325 ILCS 5/7. For a board that wants to include what a DCFS report should contain, an optional sentence follows:

The report shall include, if known:

1. The name and address of the child, parent/guardian names, or other persons having custody;
2. The child's age;
3. The child's condition, including any evidence of previous injuries or disabilities; and
4. Any other information that the reporter believes may be helpful to DCFS for its investigation.

When two or more mandated reporters who work within the same workplace share a reasonable cause to believe that a student may be an abused or neglected child, one of them may be designated to make a single report. 325 ILCS 5/4(b). The report must include the name(s) and contact information for the other mandated reporter(s). Id.

<sup>5</sup> ANCRA states that mandated reporters "may also notify the person in charge of [the] school[.]" 325 ILCS 5/4(e). This sample policy makes the report to the superintendent or building principal mandatory to keep the administration informed. The administration may not force the staff member to change or modify his or her report.

<sup>6</sup> Optional. The sample policy makes coordination with DCFS, the SRO, and local law enforcement a step in the process of reporting, so the local agencies and school district are better able to prevent and manage the risks school officials and parents/guardians face when a DCFS report has been made, e.g., situations where parents/guardians, upon learning a DCFS report has been made involving their child(ren), commit an act of self-harm in response to the information.

For school districts in DuPage County, the DuPage County State's Attorney (SAO), Regional Office of Education (ROE), Police Dept. (PD), and DCFS [have](#) created a *Model Policy Reporting Child Abuse and Neglect for School Officials in DuPage County*, at: [www.dupageroe.org/wp-content/uploads/Mandated\\_Reporting.pdf](http://www.dupageroe.org/wp-content/uploads/Mandated_Reporting.pdf). Consult the board attorney about this reporting policy – [it does not account for legislative changes made to ANCRA since August 2010](#) and its intent is for school officials to immediately inform the SAO that a report to DCFS has been made to allow the SAO to investigate and prevent evidence spoliation. **Note:** The DuPage SAO, ROE, and PD lack authority under ANCRA over school officials to enforce compliance with this "model reporting policy;" only DCFS has the authority under ANCRA to enforce penalties under ANCRA, not the "model reporting policy." The DuPage SAO, ROE, and PD did not consult school officials in the creation of its "model reporting policy."

<sup>7</sup> 105 ILCS 5/10-23.12(c) (all district employees); 105 ILCS 5/21B-75(b) (teachers).

Exploited Children's CyberTipline 1-800-THE-LOST (1-800-843-5678) or online at <https://report.cybertip.org> or [www.missingkids.org](http://www.missingkids.org). The Superintendent or Building Principal shall also be promptly notified of the discovery and that a report has been made.<sup>8</sup>

Any District employee who observes any act of hazing that does bodily harm to a student must report that act to the Building Principal, Superintendent, or designee who will investigate and take appropriate action. If the hazing results in death or great bodily harm, the employee must first make the report to law enforcement and then to the Superintendent or Building Principal. Hazing is defined as any intentional, knowing, or reckless act directed to or required of a student for the purpose of being initiated into, affiliating with, holding office in, or maintaining membership in any group, organization, club, or athletic team whose members are or include other students.<sup>9</sup>

Abused and Neglected Child Reporting Act (ANCRA), School Code, and Erin's Law Training

The Superintendent or designee shall provide staff development opportunities for District employees in the detection, reporting, and prevention of child abuse and neglect.<sup>10</sup>

All District employees shall:

1. Before beginning employment, sign the *Acknowledgement of Mandated Reporter Status* form provided by DCF. The Superintendent or designee shall ensure that the signed forms are retained.

**Commented [MB1]:** The contents of 105 ILCS 5/10-23.12(a) are deleted by P.A. 103-542, eff. 1-1-24. It contained duplicative staff training requirements that are covered by ANCRA.

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>8</sup> ANCRA requires an electronic and information technology equipment worker or the worker's employer to report a discovery of child pornography depicted on an item of electronic and information technology equipment. 325 ILCS 5/4.5(b). Consult the board attorney to determine whether any district employees fit the definition of an *electronic and information technology worker*, i.e., are "persons who in the scope and course of their employment or business install, repair, or otherwise service electronic and information technology equipment for a fee."

The paragraph exceeds the State requirements by requiring *all* district employees to report a discovery of child pornography on electronic and information technology equipment. This furthers the National Center for Missing and Exploited Children's public policy goal of "empowering the public to take immediate and direct action to enforce a zero tolerance policy regarding child sexual exploitation."

Similar to school personnel who are mandated reporters, electronic and information technology equipment workers and their employers have broad immunities from criminal, civil, or administrative liabilities when they report a discovery of child pornography as required under 325 ILCS 5/4.5(b), except for willful or wanton misconduct, e.g., knowingly filing a false report. Failure to report a discovery of child pornography is a business offense subject to a fine of \$1001. 325 ILCS 5/4.5(e).

<sup>9</sup> 720 ILCS 5/12C-50.1(b) creates a duty for *school officials* to report hazing. The term *school official* includes all school employees and volunteer coaches. 720 ILCS 5/12C-50.1(a). The duty to report hazing is triggered only when the employee/volunteer is fulfilling his or her responsibilities as a school official and observes hazing which results in bodily harm. 720 ILCS 5/12C-50.1(b). A report must be made to *supervising educational authorities*, which is not defined in the Act. *Id.* Common sense, however, would require the individual witnessing hazing to report it to the building principal or superintendent. Failure to report hazing is a Class B misdemeanor. 720 ILCS 5/12C-50.1(c). Failure to report hazing that resulted in death or great bodily harm is a Class A misdemeanor. *Id.* 7:190-AP1, *Hazing Prohibited*, uses the same definition of *hazing*; this definition is based on 720 ILCS 5/12C-50.

<sup>10</sup> While it is unclear whether this is a duty or power, 105 ILCS 5/10-23.12(a), amended by P.A. 100-413, authorizes boards "[t]o provide staff development for local school site personnel who work with pupils in grades kindergarten through 8, in the detection, reporting, and prevention of child abuse and neglect."

The drill during such training should be: "If in question, report."

2. Complete mandated reporter training as required by law within three months of initial employment and at least every three years after that date. <sup>11</sup>
3. Complete an annual evidence-informed training related to child sexual abuse, grooming behaviors (including *sexual misconduct* as defined in *Faith's Law*)<sup>12</sup>, and boundary violations as required by law and policy 5:100, *Staff Development Program*. <sup>13,14</sup>

**Commented [MB2]:** The contents of 105 ILCS 5/10-23.12(b) are deleted by P.A. 103-542, eff. 1-1-24.

#### Alleged Incidents of Sexual Abuse; Investigations <sup>15</sup>

An *alleged incident of sexual abuse* is an incident of sexual abuse of a child, as defined in 720 ILCS 5/11-9.1A, that is alleged to have been perpetrated by school personnel, including a school vendor or volunteer, that occurred: on school grounds during a school activity; or outside of school grounds or not during a school activity. <sup>16</sup>

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>11</sup> ANCRA ~~also~~ requires staff members, within three months of employment, to complete mandated reporter training, including a section on implicit bias and racial and ethnic sensitivity. 325 ILCS 5/4(j), amended by P.A. 102-604. This training must be completed again at least every three years. Id. The initial ANCRA three-month training requirement applies to the first time staff engage in their professional or official capacity. Id. While the law allows an extension to six months, it is unclear when such an extension is permissible. Consult the board attorney for guidance. As a best practice, to ensure compliance with the requirement in 105 ILCS 5/22-85(c) that mandated reporters annually review Ill. State Board of Education (ISBE) materials regarding notification of DCFS (see f/n ~~16~~7, below), and to ease the administrative burden to track employee training schedules, a district may consider requiring annual training for all employees.

To reduce liability and align with best practices, ANCRA training for existing district employees appears prudent; however, consult the board attorney about:

1. Whether mandating existing employees to participate in ANCRA training is an item on which collective bargaining may be required. Any policy that impacts upon wages hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.
2. How to comply with both the new ANCRA training requirements and whether compliance with them would also satisfy the School Code's more limited district-provided training requirement discussed in f/n 10 above.

<sup>12</sup> Sexual misconduct under *Faith's Law* is defined in 105 ILCS 5/22-85.5(c), added by P.A. 102-676. See f/n 2, above, regarding the inclusion of sexual misconduct in the definition of *grooming behaviors* set forth in sample policy 5:120, *Employee Ethics; Code of Professional Conduct; and Conflict of Interest*.

<sup>13</sup> 105 ILCS 5/10-23.13, amended by P.A. 102-610 (a/k/a *Erin's Law*). For additional *Erin's Law* requirements and definitions, see policies and the f/ns in 4:165, *Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors*; 5:100, *Staff Development Program*; 5:120, *Employee Ethics; Code of Professional Conduct; and Conflict of Interest*; and 6:60, *Curriculum Content*.

~~<sup>14</sup> 105 ILCS 5/10-23.12(b) permits DCFS to cooperate with school officials to distribute informational ANCRA materials in school buildings. The following optional sentence provides that information: "The Superintendent or designee will display DCFS issued materials that list the DCFS toll free telephone number and methods for making a report under ANCRA in a clearly visible location in each school building."~~

<sup>15</sup> Delete this subhead if your school district is not within a county served by an accredited CAC. 105 ILCS 5/22-85 governs the investigation of an *alleged incident of sexual abuse* of any child within any Illinois counties served by a CAC. For a map of accredited CACs, and to identify a CAC that may serve your district, see [www.childrensadvocacycentersofillinois.org/about/map](http://www.childrensadvocacycentersofillinois.org/about/map). The law is silent about investigations in counties without CACs.

<sup>16</sup> Though 105 ILCS 5/22-85(b) defines *alleged incident of sexual abuse*, its definition is circular, using the term *sexual abuse* without defining what that means. To provide boards with clarity, the definition of *sexual abuse* used in the Ill. Criminal Code of 2012 is used.

If a District employee reports an alleged incident of sexual abuse to DCFS<sup>17</sup> and DCFS accepts the report for investigation, DCFS will refer the matter to the local Children’s Advocacy Center (CAC).<sup>18</sup> The Superintendent or designee will implement procedures to coordinate with the CAC.

DCFS and/or the appropriate law enforcement agency will inform the District when its investigation is complete or has been suspended, as well as the outcome of its investigation.<sup>19</sup> The existence of a DCFS and/or law enforcement investigation will not preclude the District from conducting its own parallel investigation into the alleged incident of sexual abuse in accordance with policy 7:20, *Harassment of Students Prohibited*.

#### Special Superintendent Responsibilities

The Superintendent shall execute the requirements in Board policy 5:150, *Personnel Records*, whenever another school district requests a reference concerning an applicant who is or was a District employee and was the subject of a report made by a District employee to DCFS.<sup>20</sup>

When the Superintendent has reasonable cause to believe that a license holder (1) committed an intentional act of abuse or neglect with the result of making a child an abused child or a neglected child under ANCRA or an act of sexual misconduct under *Faith’s Law*, and (2) that act resulted in the license holder’s dismissal or resignation from the District, the Superintendent shall notify the State Superintendent and the Regional Superintendent in writing, providing the Ill. Educator Identification Number as well as a brief description of the misconduct alleged.<sup>21</sup> The Superintendent must make the

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<sup>17</sup> 105 ILCS 5/22-85(c) provides that if a mandated reporter within a school has knowledge of an alleged incident of sexual abuse, the reporter must call the DCFS hotline immediately after obtaining the minimal information necessary to make a report, including the names of the affected parties and the allegations. It further requires ISBE to make available materials detailing the information necessary to enable notification to DCFS of an alleged incident of sexual abuse, and that all mandated reporters annually review ISBE’s materials.

<sup>18</sup> 105 ILCS 5/22-85(d).

<sup>19</sup> 105 ILCS 5/22-85(j), (k).

<sup>20</sup> ANCRA requires a superintendent, upon being requested for a reference concerning an employee or former employee, to disclose to the requesting school district the fact that a district employee has made a report involving the conduct of the applicant or caused a report to be made to DCFS. 325 ILCS 5/4(d). When a report involves an adult student with a disability, DCFS must instruct mandated reporters making these reports to call the DHS’ Office of the Inspector General’s statewide 24 hour toll-free telephone number: 1-800-368-1463 (325 ILCS 5/4.4a) to make a report under the DHS Act.

The DHS Act (20 ILCS 1305/1-17(l)) then requires a determination of whether a report involving an adult student with a disability should be investigated under it or the Abuse of Adults with Disabilities Intervention Act (20 ILCS 2435), however that Act was repealed by P.A. 99-049 (eff. 7-1-13). The DHS Act does not outline a duty for the superintendent, upon being requested for a reference concerning an employee or former employee, to disclose to the requesting school district the fact that a district employee has made a report involving the conduct of the applicant or caused a report to be made to DHS involving an adult student with a disability.

Given the public policy behind the amendments to 325 ILCS 5/4, a reasonable interpretation of the law is that the superintendent’s duty to disclose now involves DHS reports concerning adult students with disabilities. However, with no mechanism requiring DHS to report back to the superintendent a *non-substantiated report* (DHS version of a DCFS *unfounded report*), a superintendent’s duty to disclose cannot end. Consult the board attorney about managing the duty to disclose reports that involve adult students with disabilities when DCFS redirects the reporter to DHS. For more information, see policy 5:150, *Personnel Records*.

See also f/n 4 of policy 5:150, *Personnel Records*, discussing the Elementary and Secondary Education Act’s (ESEA) (20 U.S.C. §7926) requirement that school policies must explicitly prohibit school districts from providing a recommendation of employment for an employee, contractor, or agent that a district knows, or has probable cause to believe, has engaged in sexual misconduct with a student or minor in violation of the law.

<sup>21</sup> Alternative for districts in suburban Cook County: replace “Regional Superintendent” with “appropriate Intermediate Service Center Executive Director.”



report within 30 days of the dismissal or resignation and mail a copy of the notification to the license holder.<sup>22</sup>

The Superintendent shall develop procedures for notifying a student's parents/guardians when a District employee, contractor, or agent is alleged to have engaged in sexual misconduct with the student as defined in *Faith's Law*. The Superintendent shall also develop procedures for notifying the student's parents/guardians when the Board takes action relating to the employment of the employee, contractor, or agent following the investigation of sexual misconduct. Notification shall not occur when the employee, contractor, or agent alleged to have engaged in sexual misconduct is the student's parent/guardian, and/or when the student is at least 18 years of age or emancipated.<sup>23</sup>

The Superintendent shall execute the recordkeeping requirements of *Faith's Law*.<sup>24</sup>

#### Special School Board Member Responsibilities

Each individual Board member must, if an allegation is raised to the member during an open or closed Board meeting that a student is an abused child as defined in ANCRA, direct or cause the Board to direct the Superintendent or other equivalent school administrator to comply with ANCRA's requirements concerning the reporting of child abuse.<sup>25</sup>

If the Board determines that any District employee, other than an employee licensed under 105 ILCS 5/21B, has willfully or negligently failed to report an instance of suspected child abuse or neglect as required by ANCRA, the Board may dismiss that employee immediately.<sup>26</sup>

When the Board learns that a licensed teacher was convicted of any felony, it must promptly report it to the State agencies listed in policy 2:20, *Powers and Duties of the School Board; Indemnification*.<sup>27</sup>

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<sup>22</sup> 105 ILCS 5/10-21.9(e-5), amended by P.A.s 102-552 and 102-702, ~~eff. 7-1-23~~, requires these notifications and provides superintendents immunity from any liability, whether civil or criminal or that otherwise might result by complying with the statute.

<sup>23</sup> 105 ILCS 5/22-85.10, added by P.A. 102-702, ~~eff. 7-1-23~~. See sample [administrative](#) procedure 5:90-AP2, *Parent/Guardian Notification of Sexual Misconduct*.

<sup>24</sup> 105 ILCS 5/22-94(e), added by P.A. 102-702, ~~eff. 7-1-23~~. See sample [administrative](#) procedure 5:150-AP, *Personnel Records*.

<sup>25</sup> 325 ILCS 5/4(d), ~~amended by P.A. 103-22~~. This statute makes board members mandatory child abuse reporters "to the extent required in accordance with other provisions of this section expressly concerning the duty of school board members to report suspected child abuse." Thus, a board member's duty is "to direct the superintendent or other equivalent school administrator to comply with the Act's requirements concerning the reporting of child abuse" whenever an "allegation is raised to a school board member during the course of an open or closed school board meeting that a child who is enrolled in the school district of which ~~he or she~~ [the person](#) is a board member is an abused child." Of course, any board member with reason to doubt that a report was or will be made should directly contact DCFS.

<sup>26</sup> 105 ILCS 5/10-23.12(c). See f/n 7, above, and f/n 3 in sample policy 2:20, *Powers and Duties of the School Board; Indemnification*.

<sup>27</sup> 105 ILCS 5/21B-85(a) and (b), amended by P.A. 102-552. Because felony charges often arise out of abuse and neglect investigation, this board duty is listed here for convenience. See the discussion in the f/ns tied to these duties in sample policy 2:20, *Powers and Duties of the School Board; Indemnification*.

LEGAL REF.: 20 U.S.C. §7926, Elementary and Secondary Education Act.  
105 ILCS 5/10-21.9, 5/10-23.13, 5/21B-85, 5/22-85.5, and 5/22-85.10.  
20 ILCS 1305/1-1 et seq., Department of Human Services Act.  
325 ILCS 5/, Abused and Neglected Child Reporting Act.  
720 ILCS 5/12C-50.1, Criminal Code of 2012.

CROSS REF.: 2:20 (Powers and Duties of the School Board; Indemnification), 3:40 (Superintendent), 3:50 (Administrative Personnel Other Than the Superintendent), 3:60 (Administrative Responsibility of the Building Principal), 4:60 (Purchases and Contracts), 4:165 (Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors), 5:20 (Workplace Harassment Prohibited), 5:30 (Hiring Process and Criteria), 5:100 (Staff Development Program), 5:120 (Employee Ethics; Code of Professional Conduct; and Conflict of Interest), 5:150 (Personnel Records), 5:200 (Terms and Conditions of Employment and Dismissal), 5:290 (Employment Termination and Suspensions), 6:120 (Education of Children with Disabilities), 6:250 (Community Resource Persons and Volunteers), 7:20 (Harassment of Students Prohibited), 7:150 (Agency and Police Interviews)

## General Personnel

### Employee Ethics; Code of Professional Conduct; and Conflict of Interest <sup>1</sup>

All District employees are expected to maintain high standards in their job performance, demonstrate integrity and honesty, be considerate and cooperative, and maintain professional and appropriate relationships with students, parents/guardians, staff members, and others.

The Superintendent or designee shall provide this policy to all District employees and students and/or parents/guardians in their respective handbooks, and ensure its posting on the District's website, if any.<sup>2</sup>

#### Professional and Appropriate Conduct

Professional and appropriate employee conduct are important Board goals that impact the quality of a safe learning environment and the school community, increasing students' ability to learn and the District's ability to educate. To protect students from sexual misconduct by employees, and employees from the appearance of impropriety, State law also recognizes the importance for District employees to constantly maintain professional and appropriate relationships with students by following established expectations and guidelines for employee-student boundaries. Many breaches of employee-student boundaries do not rise to the level of criminal behavior but do pose a potential risk to student safety and impact the quality of a safe learning environment. Repeated violations of employee-student boundaries may indicate the grooming of a student for sexual abuse. As bystanders, employees may know of concerning behaviors that no one else is aware of, so their training on: (1) preventing, recognizing, reporting, and responding to child sexual abuse and grooming behavior; (2) this policy; and (3) federal and state reporting requirements is essential to maintaining the Board's goal of professional and appropriate conduct.<sup>3</sup>

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<sup>1</sup> The State Officials and Employees Ethics Act (SOEEA) (5 ILCS 430/), *Erin's Law* (105 ILCS 5/10-23.13, amended by P.A. 102-610), and *Faith's Law* (105 ILCS 5/22-85.5, added by P.A. 102-676), require a policy on subjects covered in this sample policy; State and federal law controls its content.

This policy contains items on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

This policy largely cites 105 ILCS 5/22-85.5, a small portion of the *Faith's Law* package. *Faith's Law* is the entirety of Public Act 102-676, which closed significant legal loopholes related to combating grooming by: (1) broadening the definition of grooming prohibited by the Criminal Code of 2012 (720 ILCS 5/11-25); (2) authorizing the Ill. Dept. of Children and Family Services to investigate grooming allegations under the Abused and Neglected Child Reporting Act (325 ILCS 5/3); and (3) requiring the Ill. State Board of Education (ISBE) to, ~~by 7-1-23~~, develop and maintain a resource guide for students, parents/guardians, and teachers about sexual abuse response and prevention resources available in their community (105 ILCS 5/2-3.188). [ISBE's Sexual Abuse Response and Prevention Resource Guide \(June 2023\) is at: www.isbe.net/Documents/Faiths-Law-Resource-Guide.pdf](http://www.isbe.net/Documents/Faiths-Law-Resource-Guide.pdf). A *Faith's Law* trailer bill, P.A. 102-702, ~~eff. 7-1-23~~, further combats grooming by amending School Code provisions related to district and third-party contractor hiring practices, suspension and revocation of employee licenses, and criminal history records checks for prospective and current employees.

<sup>2</sup> Required by 105 ILCS 5/22-85.5(e), added by P.A. 102-676. See 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*, and 7:190-E2, *Student Handbook Checklist*. The Ill. Principals Association (IPA) maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook (MSH)*, at: [www.ilprincipals.org/msh](http://www.ilprincipals.org/msh).

<sup>3</sup> See 105 ILCS 5/22-85.5(b), added by P.A. 102-676.

The Superintendent or designee shall identify employee conduct standards<sup>4</sup> that define appropriate employee-student boundaries, provide training about them, and monitor the District’s employees for violations of employee-student boundaries. The employee conduct standards will require that, at a minimum:

1. Employees who are governed by the *Code of Ethics for Illinois Educators*, adopted by the Ill. State Board of Education (ISBE), will comply with its incorporation by reference into this policy.<sup>5</sup>
2. Employees are trained on educator ethics, child abuse, grooming behaviors, and employee-student boundary violations as required by law and policies 2:265, *Title IX Sexual Harassment Grievance Procedure*; 4:165, *Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors*; 5:90, *Abused and Neglected Child Reporting*; and 5:100, *Staff Development Program*.<sup>6</sup>
3. Employees maintain professional relationships with students, including maintaining employee-student boundaries based upon students’ ages, grade levels, and developmental levels and following District-established guidelines for specific situations, including but not limited to:<sup>7</sup>
  - a. Transporting a student;
  - b. Taking or possessing a photo or video of a student; and

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<sup>4</sup> Sample conduct standards are contained in administrative procedure 5:120-AP2, *Employee Conduct Standards*. These items are subjects of mandatory collective bargaining. Consult the board attorney for advice before establishing them.

<sup>5</sup> 105 ILCS 5/22-85.5(d)(1), added by P.A. 102-676; 23 Ill.Admin.Code Part 22. 105 ILCS 5/22-85.5(d)(1) requires boards to incorporate ISBE’s *Code of Ethics for Illinois Educators* in their policies. Prior to this law requiring boards to incorporate the *Code* by reference, this policy incorporated it to demonstrate a board’s commitment to the *Code*’s principles, potentially allowing a board to enforce the *Code* independently from any action taken by the State Superintendent.

<sup>6</sup> 105 ILCS 5/22-85.5(d)(5), added by P.A. 102-676, requires districts to reference required employee training related to child abuse and educator ethics in its employee professional conduct policy.

105 ILCS 5/10-22.39 ~~(f)(b-35)~~, added by P.A. 103-542, eff. 1-1-24, requires that beginning 7-1-24, each board to conduct in-service training on educator ethics and responding to child sexual abuse and grooming behavior including, but not limited to, teacher-student conduct, and school employee-student conduct, and evidence-informed training on preventing, recognizing, reporting, and responding to child sexual abuse and grooming as outlined in 105 ILCS 5/10-23.13 (a/k/a Erin’s Law) for all teachers, administrators, and school support personnel. These expectations will be most effective when the in-service curriculum reflects local conditions and circumstances. While the School Code only requires the in-service, the requirement presents an opportunity for each board and the superintendent to examine all current policies, collective bargaining agreements, and administrative procedures on this subject. Each board may then want to have a conversation with the superintendent and direct him or her to develop a curriculum for the in-service that instructs all district employees to maintain boundaries and act appropriately, professionally, and ethically with students. See discussion in f/n 4 in 5:100, *Staff Development Program*. After its discussion of these issues, the board may have further expectations and may choose to reflect those expectations here.

105 ILCS 5/10-23.13(c), amended by P.A. 102-610, requires districts to provide evidenced-informed training for school personnel on preventing, recognizing, reporting, and responding to child sexual abuse and grooming behavior by no later than January 31 of each year. See sample policy 4:165, *Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors*, for further detail about the training requirements.

325 ILCS 5/4(j), amended by P.A. ~~s 101-564 and~~ 102-604, requires district employees to complete mandated reporter training within three months of initial employment and at least every three years thereafter. ~~See f/n 10 in sample policy 5:90, Abused and Neglected Child Reporting, for further detail about the training requirements.~~

775 ILCS 5/2-109, added by P.A. 101-221, requires districts to provide annual workplace sexual harassment prevention training to all employees. See f/n 4 in sample policy 5:20, *Workplace Harassment Prohibited*, for further detail about the training requirements.

<sup>7</sup> Required by 105 ILCS 5/10-23.13(b), amended by P.A. 102-610; 105 ILCS 5/22-85.5(d)(3), added by P.A. 102-676. Sample expectations and guidelines are contained in administrative procedure 5:120-AP2, E, *Expectations and Guidelines for Employee-Student Boundaries*.

- c. Meeting with a student or contacting a student outside the employee’s professional role.
4. Employees report prohibited behaviors and/or boundary violations pursuant to Board policies 2:260, *Uniform Grievance Procedure*; 2:265, *Title IX Sexual Harassment Grievance Procedure*; and 5:90, *Abused and Neglected Child Reporting*.<sup>8</sup>
5. Discipline up to and including dismissal will occur for any employee who violates an employee conduct standard or engages in any of the following:<sup>9</sup>
  - a. Violates expectations and guidelines for employee-student boundaries.<sup>10</sup>
  - b. Sexually harasses a student.<sup>11</sup>
  - c. Willfully or negligently fails to follow reporting requirements of the Abused and Neglected Child Reporting Act (325 ILCS 5/),<sup>12</sup> Title IX of the Education Amendments of 1972 (20 U.S.C. §1681 *et seq.*), or the Elementary and Secondary Education Act (20 U.S.C. § 7926).<sup>13</sup>
  - d. Engages in grooming as defined in 720 ILCS 5/11-25.<sup>14</sup>
  - e. Engages in grooming behaviors. Prohibited grooming behaviors<sup>15</sup> include, at a minimum, *sexual misconduct*. *Sexual misconduct*<sup>16</sup> is any act, including but not limited to, any verbal, nonverbal, written, or electronic communication or physical activity, by an employee with direct contact with a student, that is directed toward or with a student

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<sup>8</sup> Required by 105 ILCS 5/22-85.5(d)(4), added by P.A. 102-676. See also 105 ILCS 5/10-23.13(b), amended by P.A. 102-610.

<sup>9</sup> Required by 105 ILCS 5/22-85.5(f), added by P.A. 102-676.

<sup>10</sup> Sample expectations and guidelines are contained in administrative procedure 5:120-AP2, E, *Expectations and Guidelines for Employee-Student Boundaries*. These items are subjects of mandatory collective bargaining. Consult the board attorney for advice before establishing them.

<sup>11</sup> The Ill. Human Rights Act makes it a civil rights violation to fail to take remedial action, or to fail to take appropriate disciplinary action, against any employee when the district knows that the employee committed or engaged in sexual harassment of a student. 775 ILCS 5/5A-102, [amended by P.A. 103-472, eff. 8-1-24](#). Sexual harassment of a student is also prohibited by 2:265, *Title IX Sexual Harassment Grievance Procedure*, and 7:20, *Harassment of Students Prohibited*. Sexual harassment of an employee is also prohibited by policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, and 5:20, *Workplace Harassment Prohibited*.

<sup>12</sup> 325 ILCS 5/4(a)(4), [amended by P.A. 101-564](#); 105 ILCS 5/10-23.12(c) (all district employees), [added by P.A. 101-531](#); 105 ILCS 5/21B-75(b) (teachers), amended by P.A.s [101-531](#), 102-552, and 102-702, [eff. 7-1-23](#).

<sup>13</sup> Required by 105 ILCS 5/22-85.5(d)(4), added by P.A. 102-676.

<sup>14</sup> 720 ILCS 5/11-25(a), amended by P.A. 102-676, defines *grooming* as follows: “A person commits grooming when he or she knowingly uses a computer on-line service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission, performs an act in person or by conduct through a third party, or uses written communication to seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice, a child, a child's guardian, or another person believed by the person to be a child or a child's guardian, to commit any sex offense as defined in Section 2 of the Sex Offender Registration Act, to distribute photographs depicting the sex organs of the child, or to otherwise engage in any unlawful sexual conduct with a child or with another person believed by the person to be a child. As used in this Section, ‘child’ means a person under 17 years of age.”

<sup>15</sup> Required by 105 ILCS 5/10-23.13(b), amended by P.A. 102-610.

<sup>16</sup> Required by 105 ILCS 5/22-85.5(d)(2), added by P.A. 102-676. This definition of *sexual misconduct* is adapted from 105 ILCS 5/22-85.5(c), added by P.A. 102-676. It results from collaboration to implement some recommendations of the *Make Sexual and Severe Physical Abuse Fully Extinct (Make S.A.F.E.) Taskforce* and was endorsed by Stop Educator Sexual Abuse Misconduct & Exploitation (S.E.S.A.M.E.), a national organization working to prevent sexual exploitation, abuse, and harassment of students by teachers and other school staff. See [www.sesamenet.org/](http://www.sesamenet.org/) for further information.

to establish a romantic or sexual relationship with the student. Examples include, but are not limited to:

- i. A sexual or romantic invitation.
- ii. Dating or soliciting a date.
- iii. Engaging in sexualized or romantic dialog.
- iv. Making sexually suggestive comments that are directed toward or with a student.
- v. Self-disclosure or physical exposure of a sexual, romantic, or erotic nature.
- vi. A sexual, indecent, romantic, or erotic contact with the student.

#### Statement of Economic Interests

The following employees must file a *Statement of Economic Interests* as required by the III. Governmental Ethics Act: <sup>17</sup>

1. Superintendent;
2. Building Principal;
3. Head of any department;
4. Any employee who, as the District's agent, is responsible for negotiating one or more contracts, including collective bargaining agreement(s), in the amount of \$1,000 or greater;
5. Hearing officer;
6. Any employee having supervisory authority for 20 or more employees; and
7. Any employee in a position that requires an administrative or a chief school business official endorsement.

#### Ethics and Gift Ban

Board policy 2:105, *Ethics and Gift Ban*, applies to all District employees.<sup>18</sup> Students shall not be used in any manner for promoting a political candidate or issue.

#### Prohibited Interests; Conflict of Interest; and Limitation of Authority

In accordance with 105 ILCS 5/22-5, "no school officer or teacher shall be interested in the sale, proceeds, or profits of any book, apparatus, or furniture used or to be used in any school with which such officer or teacher may be connected," except when the employee is the author or developer of

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<sup>17</sup> 5 ILCS 420/4A-101.5, ~~added by P.A. 101-221~~. See 5 ILCS 420/4A-102, amended by P.A.s ~~101-221~~, 102-664, and 102-813, for economic interests of an employee's spouse or any other party that is considered the employee's interests if the employee constructively controls them. Any county clerk may use a mandatory system of Internet-based filing of economic interest statements; if done, the clerk must post the statements, without the addresses, of the filers, on a publicly accessible website. 5 ILCS 420/4A-108, amended by P.A.s ~~101-221 and~~ 102-664.

<sup>18</sup> The SOEEA prohibits State employees from engaging in certain political activities and accepting certain gifts. 5 ILCS 430/. It requires all school districts to adopt an *ordinance or resolution* "in a manner no less restrictive" than the Act's provisions. See sample policy 2:105, *Ethics and Gift Ban*.

Districts may not inhibit or prohibit employees from petitioning, making public speeches, campaigning for or against political candidates, speaking out on public policy questions, distributing political literature, making campaign contributions, and seeking public office. 50 ILCS 135/, Local Governmental Employees Political Rights Act. An employee may not use his/her position of employment to coerce or inhibit others in the free exercise of their political rights or engage in political activities at work. Id.

instructional materials listed with ISBE and adopted for use by the Board.<sup>19</sup> An employee having an interest in instructional materials must file an annual statement with the Board Secretary.<sup>20</sup>

For the purpose of acquiring profit or personal gain, no employee shall act as an agent of the District nor shall an employee act as an agent of any business in any transaction with the District. This includes participation in the selection, award, or administration of a contract supported by a federal award or State award governed by the Grant Accountability and Transparency Act (GATA) (30 ILCS 708/) when the employee has a real or apparent conflict of interest.<sup>21</sup> A conflict of interest arises when an employee or any of the following individuals has a financial or other interest in or a tangible benefit from the entity selected for the contract:

1. A member of the employee's immediate family;
2. An employee's partner<sup>22</sup>; or
3. An entity that employs or is about to employ the employee or one of the individuals listed in one or two above.<sup>23</sup>

Employees shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to agreements or subcontracts.<sup>24</sup> Situations in which the interest is not substantial or the gift is an unsolicited item of nominal value must comply with State law and Board policy 2:105, *Ethics and Gift Ban*.<sup>25</sup>

#### Guidance Counselor Gift Ban<sup>26</sup>

Guidance counselors are prohibited from intentionally soliciting or accepting any gift from a *prohibited source* or any gift that would be in violation of any federal or State statute or rule. For guidance counselors, a *prohibited source* is any person who is (1) employed by an institution of higher education, or (2) an agent or spouse of or an immediate family member living with a person employed by an institution of higher education. This prohibition does not apply to:

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<sup>19</sup> This sentence quotes 105 ILCS 5/22-5 because the statute does not define important terms making it difficult to paraphrase. No appellate decision defines *school officer* or *apparatus*, or what is meant by *connected*. The statute was enacted in 1961, but earlier versions were in the School Code much longer. A violation of this prohibition is a Class A misdemeanor.

<sup>20</sup> *Id.*

<sup>21</sup> 2 C.F.R. §200.318(c)(1) prohibits employees, officers, or agents of a school district from participating in the selection, award, or administration of a contract supported by a federal award if they have a real or apparent *conflict of interest*. The uniform federal rules on procurement standards in 2 C.F.R. Part 200 also apply to eligible State grants through the Grant Accountability and Transparency Act (GATA) (30 ILCS 708/). Authoritative sources and guidance regarding conflict of interest and financial disclosure are provided through the GATA Resource Library at [www.grants.illinois.gov](http://www.grants.illinois.gov) <https://gata.illinois.gov/>. See also ISBE's *Procurement and Purchasing Checklist* at: [www.isbe.net/Pages/Federal-and-State-Monitoring.aspx](http://www.isbe.net/Pages/Federal-and-State-Monitoring.aspx). See sample policy 2:100, *Board Member Conflict of Interest*, at f/n 6, for further discussion.

<sup>22</sup> See sample policy 2:100, *Board Member Conflict of Interest*, at f/n 7 for a discussion of the term *partner*.

<sup>23</sup> 2 C.F.R. §200.318(c)(1).

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* The rule provides flexibility for school districts to "set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value," along with "disciplinary actions to be applied for violations." Referring to sample policy 2:105, *Ethics and Gift Ban*, for these standards provides clarity and consistency. Sample policy 2:105 refers to **Limitations on Receiving Gifts** in the Ethics Act at 5 ILCS 430/10-10 – 10-30, along with discussion of the specific penalties available under the Ethics Act at 5 ILCS 430/50-5 in its **Enforcement** subhead.

<sup>26</sup> This section is only for those districts with a high school. 105 ILCS 5/22-93, added by P.A. 102-327 and renumbered by P.A. 102-813. *Guidance counselor* means a person employed by a school district and working in a high school to offer students advice and assistance in making career or college plans. *Id.*

1. Opportunities, benefits, and services available on the same conditions as for the general public.
2. Anything for which the guidance counselor pays market value.
3. A gift from a relative.
4. Anything provided by an individual on the basis of a personal friendship, unless the guidance counselor believes that it was provided due to the official position or employment of the guidance counselor and not due to the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the guidance counselor must consider the circumstances in which the gift was offered, including any of the following:
  - a. The history of the relationship between the individual giving the gift and the guidance counselor, including any previous exchange of gifts between those individuals.
  - b. Whether, to the actual knowledge of the guidance counselor, the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift.
  - c. Whether, to the actual knowledge of the guidance counselor, the individual who gave the gift also, at the same time, gave the same or a similar gift to other school district employees.
5. Bequests, inheritances, or other transfers at death.
6. Any item(s) during any calendar year having a cumulative total value of less than \$100.
7. Promotional materials, including, but not limited to, pens, pencils, banners, posters, and pennants.

A guidance counselor does not violate this prohibition if he or she promptly returns the gift to the prohibited source or donates the gift or an amount equal to its value to a 501(c)(3) tax-exempt charity.

#### Outside Employment

Employees shall not engage in any other employment or in any private business during regular working hours or at such other times as are necessary to fulfill appropriate assigned duties.



Incorporated

by reference: 5:120-E (Code of Ethics for Ill. Educators)

LEGAL REF.: U.S. Constitution, First Amendment.  
2 C.F.R. §200.318(c)(1).  
5 ILCS 420/4A-101, Ill. Governmental Ethics Act.  
5 ILCS 430/, State Officials and Employee Ethics Act.  
30 ILCS 708/, Grant Accountability and Transparency Act.  
50 ILCS 135/, Local Governmental Employees Political Rights Act.  
105 ILCS 5/10-22.39, 5/10-23.13, 5/22-5, 5/22-85.5, and 5/22-93.  
325 ILCS 5/, Abused and Neglected Child Reporting Act.  
720 ILCS 5/11-25, Criminal Code of 2012.  
775 ILCS 5/5A-102, Ill. Human Rights Act.  
23 Ill.Admin.Code Part 22, Code of Ethics for Ill. Educators.  
Pickering v. Board of Township H.S. Dist. 205, 391 U.S. 563 (1968).  
Garcetti v. Ceballos, 547 U.S. 410 (2006).

CROSS REF.: 2:105 (Ethics and Gift Ban), 2:265 (Title IX Sexual Harassment Grievance Procedure), 4:60 (Purchases and Contracts), 4:165 (Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors), 5:90 (Abused and Neglected Child Reporting), 5:100 (Staff Development Program), 5:125 (Personal Technology and Social Media; Usage and Conduct), 5:200 (Terms and Conditions of Employment and Dismissal), 5:290 (Employment Terminations and Suspensions), 7:20 (Harassment of Students Prohibited)

## General Personnel

### Personnel Records <sup>1</sup>

#### Maintenance and Access to Records

The Superintendent or designee shall manage the maintenance of personnel records in accordance with State and federal law and School Board policy. Records, as determined by the Superintendent, are retained for all employment applicants, employees, and former employees given the need for the District to document employment-related decisions, evaluate program and staff effectiveness, and comply with government recordkeeping and reporting requirements. Personnel records shall be maintained in the District's administrative office, under the Superintendent's direct supervision.

Access to personnel records is available as follows:

1. An employee will be given access to his or her personnel records according to State law and guidelines developed by the Superintendent. <sup>2</sup>
2. An employee's supervisor or other management employee who has an employment or business-related reason to inspect the record is authorized to have access.
3. Anyone having the respective employee's written consent may have access.
4. Access will be granted to anyone authorized by State or federal law to have access.
5. All other requests for access to personnel information are governed by Board policy 2:250, *Access to District Public Records*. <sup>3</sup>

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<sup>1</sup> State or federal law controls this policy's content. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

This policy is consistent with the minimum requirements of State law. The local collective bargaining agreement may contain provisions that exceed these requirements. When a policy's subject matter is superseded by a bargaining agreement, the board policy can state, "Please refer to the applicable collective bargaining agreement(s)."

<sup>2</sup> An employee has the right to ~~view-inspect or request a copy of~~ his or her personnel file contents, with a few exceptions. Ill. Personnel Record Review Act (PRRA), 820 ILCS 40/2, ~~amended by P.A. 103-201, eff. 1-1-24~~. Thus, personnel files should contain only factual and accurate job-related information. Additionally, 105 ILCS 5/22-94(e), a/k/a *Faith's Law*, added by P.A. 102-702, ~~eff. 7-1-23~~, requires a district to maintain as part of an employee's personnel file a form including sexual misconduct related information; the form is completed at the time of separation of employment or at the request of the employee. See [sample administrative procedure 5:150-AP, Personnel Records](#). Finally, the PRRA identifies records that may not be kept: a record of an employee's associations, political activities, publications, communications, or non-employment activities (820 ILCS 40/9, [subject to limited exceptions](#)) and records identifying an employee as the subject of an investigation by the Ill. Dept. of Children and Family Services (DCFS) if the investigation resulted in an unfounded report as specified in the Abused and Neglected Child Reporting Act (820 ILCS 40/13). See f/n 5.

<sup>3</sup> Unless a specific exemption is available, personnel file information is available to anyone making a FOIA request. 5 ILCS 140/. Specific exemptions protect the following:

1. *Private information* meaning "unique identifiers, including a person's social security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person." 5 ILCS 140/7(1)(b); 5 ILCS 140/2(c)-5.
2. *Personal information* "the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." 5 ILCS 140/7(1)(c).

## Prospective Employer Inquiries Concerning a Current or Former Employee's Job Performance

The Superintendent or designee shall manage a process for responding to inquiries by a prospective employer concerning a current or former employee's job performance.<sup>4</sup> The Superintendent shall:<sup>5</sup>

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3. *Information prohibited from being disclosed under the Illinois Educational Labor Relations Act (IELRA).* 5 ILCS 140/7.5(yy); 115 ILCS 5/3(d). The prohibitions in the IELRA overlap with some categories of private information identified in FOIA and include: (a) the employee's home address (including ZIP code and county); (b) the employee's date of birth; (c) the employee's home and personal phone number; (d) the employee's personal email address; (e) any information personally identifying employee membership or membership status in a labor organization or other voluntary association affiliated with a labor organization or a labor federation; and (f) e-mails or other communications between a labor organization and its members. Unless a specific exception in the IELRA applies, if a district receives a third-party request for any of these six categories of information about an employee, the district must provide the union with a copy of the written request (or written summary of an oral request), as well as a copy of the district's response within five business days of sending the response. If the employee is not in a bargaining unit, then these notices must be given directly to the employee. 115 ILCS 5/3(d). **Note:** It is best practice to maintain union-related documents, such as grievances, separately from an employee's personnel file.
4. *Information prohibited from being disclosed by the PRRA.* 5 ILCS 140/7.5(q). The PRRA prohibits the disclosure of a performance evaluation under FOIA. 820 ILCS 40/11. The treatment of a request for a disciplinary report, letter of reprimand, or other disciplinary action depends on the age and nature of the responsive record. If the responsive record is more than four years old and is not related to an incident or attempted incident of sexual abuse, severe physical abuse, or sexual misconduct as defined in 105 ILCS 5/22-85.5(c), the request must be denied unless the disclosure is permitted by the Act. 5 ILCS 140/7.5(q); 820 ILCS 40/8, amended by P.A. 102-702, ~~eff. 7-1-23~~. If the responsive record is more than four years old and is related to an incident or an attempted incident of sexual abuse, severe physical abuse, or sexual misconduct as defined in 105 ILCS 5/22-85.5(c), the request cannot be denied. 820 ILCS 40/8, amended by P.A. 102-702, ~~eff. 7-1-23~~. If the responsive record is four years old or less (regardless of its nature), the district should provide the record and must notify the employee in written form or through email, if available. 820 ILCS 40/7 and 40/8, amended by P.A. 102-702, ~~eff. 7-1-23~~.

The School Code prohibits the disclosure of school teacher, principal, and superintendent performance evaluations except as otherwise provided in the certified employee evaluation laws. 105 ILCS 5/24A-7.1. Finally, sexual misconduct employment history review (EHR) information received pursuant to 105 ILCS 5/22-94, added by P.A. 102-702, ~~eff. 7-1-23~~, is not deemed a public record under the School Code. However, P.A. 102-702, ~~eff. 7-1-23~~, did not specifically amend or reference FOIA. Districts should consult their board attorneys if they receive FOIA requests for EHR information regarding current or former employees.

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Pub.L. 104-191) created national standards to protect individuals' medical records and other personal health information. If a district is a *covered entity* (i.e., offers a self-insured group health plan or flexible spending account), it must establish clear procedures to protect the employee's health information. 45 C.F.R. §164.502. Such districts should consult their attorneys and insurance provider for assistance.

<sup>4</sup> The Employment Record Disclosure Act (745 ILCS 46/10) provides conditional immunity to employers responding to a reference request; it states: "Any employer or authorized employee or agent acting on behalf of an employer who, upon inquiry by a prospective employer, provides truthful written or verbal information, or information that it believes in good faith is truthful, about a current or former employee's job performance is presumed to be acting in good faith and is immune from civil liability for the disclosure and the consequences of the disclosure." This immunity statute does not, however, create an exemption to the requirements in the PRRA. The PRRA requires an employer to give an employee written notice before divulging a "disciplinary report, letter of reprimand, or other disciplinary action to a third party." 820 ILCS 40/7. An employment application may contain a waiver of this notice. *Id.*

<sup>5</sup> 325 ILCS 5/4(d) requires a superintendent, upon being asked for a reference concerning an employee or former employee, to disclose to the requesting school district the fact that a district employee has made a report involving the conduct of the applicant or caused a report to be made to DCFS. For more information, see [sample administrative procedure 5:150-AP, Personnel Records](#).

1. Execute the requirements in the Abused and Neglected Child Reporting Act whenever another school district asks for a reference concerning an applicant who is or was a District employee and was the subject of a report made by a District employee to Ill. Dept. of Children and Family Services (DCFS); and
2. Comply with the federal law prohibiting the District from providing a recommendation of employment for an employee, contractor, or agent that District knows, or has probable cause to believe, has engaged in sexual misconduct with a student or minor in violation of the law,<sup>6</sup> but the Superintendent or designee may follow routine procedures regarding the transmission of administrative or personnel files for that employee.
3. Manage the District's responses to employer requests for sexual misconduct related employment history review (EHR) information in accordance with *Faith's Law*.<sup>7</sup>

When requested for information about an employee by an entity other than a prospective employer, the District will only confirm position and employment dates unless the employee has submitted a written request to the Superintendent or designee.

LEGAL REF.: 20 U.S.C. §7926.  
 105 ILCS 5/22-94.  
 325 ILCS 5/4, Abused and Neglected Child Reporting Act.  
 745 ILCS 46/10, Employment Record Disclosure Act.  
 820 ILCS 40/, Personnel Record Review Act.  
 23 Ill.Admin.Code §1.660.

CROSS REF.: 2:250 (Access to District Public Records), 5:90 (Abused and Neglected Child Reporting), 7:340 (Student Records)

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Required by the Elementary and Secondary Education Act (ESEA) (20 U.S.C. §7926). On 6-27-2018, the U.S. Dept. of Education issued a *Dear Colleague Letter* stating that school policies must explicitly state this requirement. See the resources portion for the letter at: [www2.ed.gov/policy/elsec/leg/essa/index.html](http://www2.ed.gov/policy/elsec/leg/essa/index.html). See also sample [administrative](#) procedure 2:265-API, *Title IX Sexual Harassment Response*, at f/n 7.

Consult the board attorney about what “or has probable cause to believe, has engaged in sexual misconduct” means. For guidance, sample policy 5:90, *Abused and Neglected Child Reporting*, and its f/n 154 analysis define an “alleged incident of sexual abuse” as an incident of sexual abuse of a child, as defined in 720 ILCS 5/11-9.1A, that is alleged to have been perpetrated by school personnel, including a school vendor or volunteer, that occurred: on school grounds during a school activity; or outside of school grounds or not during a school activity.

<sup>6</sup> Consult the board attorney in these situations for help about what the superintendent may or may not say. Questions exist whether the superintendent says nothing, provides a neutral reference, or whether a *recommendation* could mean positive or negative statements.

<sup>7</sup> 105 ILCS 5/22-94(e), added by P.A. 102-702, ~~eff. 7-1-23~~.

## Professional Personnel

### Teacher Qualifications <sup>1</sup>

A teacher, as the term is used in this policy, refers to a District employee who is required to be licensed under State law.<sup>2</sup> The following qualifications apply:

1. Each teacher must: <sup>3</sup>
  - a. Have a valid Illinois Professional Educator License issued by the State Superintendent of Education with the required endorsements as provided in the School Code.
  - b. Provide the District Office with a complete transcript of credits earned in institutions of higher education.
  - c. On or before September 1 of each year, unless otherwise provided in an applicable collective bargaining agreement, provide the District Office with a transcript of any credits earned since the date the last transcript was filed.
  - d. Notify the Superintendent of any change in the teacher's transcript.
2. All teachers working in a program supported with federal funds under Title I, Part A must meet applicable State certification and licensure requirements. <sup>4</sup>

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<sup>1</sup> State or federal law controls this policy's content. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. This policy concerns an area in which the law is unsettled.

<sup>2</sup> 105 ILCS 5/21B et seq., amended by P.A. 102-894; 23 Ill.Admin.Code §§ 1.610, 1.705, and Part 25 (educator licensure); 105 ILCS 5/27-24.2, amended by P.A. 101-450; and 23 Ill.Admin.Code Part 252 (contracted driver education teacher). ~~School boards may participate in the Illinois Teacher Corps; however as of 9-1-11 individuals may no longer be admitted to Illinois Teacher Corps programs. 105 ILCS 5/21-11.4, repealed in 2013.~~

<sup>3</sup> Subparagraph 1a is required for all teachers by 105 ILCS 5/21B-15 (qualifications of educators). Four types of educator licenses are listed in 105 ILCS 5/21B-20, amended by P.A.s ~~101-643 and~~ 102-894 ~~and 103-111~~: (1) Professional Educator License; (2) Educator License with Stipulations (including endorsements for alternative provisional educator, alternative provisional superintendent, career and technical educator, transitional bilingual educator, language, visiting international educator, paraprofessional educator, chief school business official, provisional in-state educator, school support personnel intern, and special education area); (3) Substitute Teaching License; and (4) until 6-30-~~283~~, Short-Term Substitute Teaching License. Districts may not require an individual who holds a valid Professional Educator License or Educator License with Stipulations to seek or hold a Substitute Teaching License to teach as a substitute teacher. 105 ILCS 5/21B-20(3). See also 23 Ill.Admin.Code §§ 1.610, 1.705, and Part 25 (per §25.100, teachers are no longer endorsed in any course subjects in which they earn grades lower than a "C-" or equivalent in college). The Ill. State Board of Education's (ISBE) *Educator Licensure Information System* (ELIS) is a web-based system that allows educators, administrators, and the public to access licensure information. See [www.isbe.net/Pages/Educator-Licensure-Information-System.aspx](http://www.isbe.net/Pages/Educator-Licensure-Information-System.aspx).

Subparagraph 1b and 1c are required of all teachers by 105 ILCS 5/24-23. Some boards add the word "official" to the phrase, "complete official transcript of credits."

Subparagraph 1d is optional but informs the superintendent when a teacher may be eligible to change lanes on the salary schedule.

<sup>4</sup> ~~The highly qualified teacher requirement of the No Child Left Behind Act, formerly found in §6319 of the Elementary and Secondary Education Act (ESEA, 20 U.S.C. §6319), was repealed by the Every Student Succeeds Act (ESSA, Pub. L. 114-95, eff. 12-10-15). ESEA federal implementing regulation 34 C.F.R. §200.55 was updated on 7-7-17 (82 Fed. Reg. 31706), and State implementing regulations at 23 Ill. Admin.Code Part 25, Appendix D (criteria for identification of teachers as highly qualified) were finally repealed on 6-3-21. Information on State implementation of ESSA is available at: [www.isbe.net/essa](http://www.isbe.net/essa).~~

The Superintendent or designee shall:

3. Monitor compliance with State and federal law requirements that teachers be appropriately licensed; <sup>5</sup>
4. Through incentives for voluntary transfers, professional development, recruiting programs, or other effective strategies, ensure that minority students and students from low-income families are not taught at higher rates than other students by unqualified, out-of-field, or inexperienced teachers; and
5. Ensure parents/guardians of students in schools receiving Title I funds are notified of their right to request their students' classroom teachers' professional qualifications. <sup>6</sup>

LEGAL REF.: 20 U.S.C. §6312(e)(1)(A).  
105 ILCS 5/10-20.15, ~~5/21-11.4~~, 5/21B-15, 5/21B-20, 5/21B-25, and 5/24-23.  
23 Ill.Admin.Code §1.610 et seq., §1.705 et seq., and Part 25.

CROSS REF.: 6:170 (Title I Programs)

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ESEA, as amended by ESSA, requires that each state plan contain assurances that the state educational agency will ensure that all teachers and paraprofessionals meet state certification/licensure requirements. 20 U.S.C. §6311(g)(2)(J).

<sup>5</sup> See the ISBE webpage on educator licensure approval requirements at [www.isbe.net/Pages/educator-licensure-approvals.aspx](http://www.isbe.net/Pages/educator-licensure-approvals.aspx).

ESEA, as amended by ESSA, requires districts to provide parents timely notice that the parent's child has been assigned, or has been taught for four or more consecutive weeks by, a teacher who does not meet applicable State certification or licensure requirements at the grade level and subject area in which the teacher has been assigned. 20 U.S.C. §6312(e)(1)(B)(ii). For a sample notice, see 5:190-E2, *Notice to Parents When Their Child Is Assigned To or Has Been Taught for at Least Four Straight Weeks By a Teacher Who Does Not Meet Applicable State Certification/Licensure Requirements*.

<sup>6</sup> 20 U.S.C. §6312(e)(1)(A).

## Professional Personnel

### Terms and Conditions of Employment and Dismissal<sup>1</sup>

The School Board delegates authority and responsibility to the Superintendent to manage the terms and conditions for the employment of professional personnel. The Superintendent shall act reasonably and comply with State and federal law as well as any applicable individual employment contract or collective bargaining agreement in effect. The Superintendent is responsible for making dismissal recommendations to the Board consistent with the Board's goal of having a highly qualified, high performing staff.<sup>2</sup>

#### School Year

Teachers shall work according to the school calendar adopted by the Board, which shall have a minimum of 176 student attendance days and a minimum of 180 teacher work days, including teacher institute days.<sup>3</sup> Teachers are not required to work on legal school holidays unless the District has followed applicable State law that allows it to hold school or schedule teachers' institutes, parent-teacher conferences, or staff development on the third Monday in January (the Birthday of Dr. Martin Luther King, Jr.); February 12 (the Birthday of President Abraham Lincoln); the first Monday in March (known as Casimir Pulaski's birthday); the second Monday in October (Columbus Day); and November 11 (Veterans Day).<sup>4</sup>

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<sup>1</sup> State or federal law controls this policy's content. This policy contains items on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. The local collective bargaining agreement may contain provisions that exceed these requirements. In such cases, the board policy should be amended to state, "Please refer to the applicable collective bargaining agreement."

Evaluation, tenure, and dismissals changed significantly from 2013 to 2016 as P.A.s 96-861, 97-8, and 98-513 were implemented. These public acts are referred to as *Education Reform* or *Education Reform Acts*.

<sup>2</sup> This paragraph is consistent with the IASB's *Foundational Principles of Effective Governance*, at:

[www.iasb.com/IASB/media/Documents/found\\_prin.pdf](http://www.iasb.com/IASB/media/Documents/found_prin.pdf). Boards have three options for using this paragraph: (1) use it as an introduction to the policy; (2) use it alone leaving the specific other topics for administrative implementation; or (3) do not use it.

<sup>3</sup> 105 ILCS 5/10-19, amended by P.A.s 101-12 and 101-643. See [sample policy](#) 6:20, *School Year Calendar and Day*.

<sup>4</sup> 105 ILCS 5/24-2(b). See sample policy 5:330, *Sick Days, Vacation, Holidays, and Leaves*, for a holiday listing as well as a discussion of the case finding the State-mandated school holiday on Good Friday unconstitutional. 105 ILCS 5/24-2, amended by P.A.s ~~101-642~~, 102-14, 102-15, 102-334, and 102-411, and ~~103-395~~, prohibits districts from making a deduction "from the time or compensation of a school employee on account of any legal or special holiday."

~~10 ILCS 5/2A-1.1c, added by P.A. 102-15 and scheduled to be repealed on 1-1-23, and 105 ILCS 5/24-2(e), amended by P.A.s 101-642 and 102-15, designated 2020 Election Day on 11-3-2020 and 2022 Election Day on 11-8-22 as legal school holidays for purposes of 105 ILCS 5/24-2. 10 ILCS 5/2A-1.1c, added by P.A. 102-15 and scheduled to be repealed on 1-1-23, requires any school closed on 2022 Election Day to make itself available to an election authority as a polling place on those days.~~

~~No waiver exists for 2022 Election Day. 105 ILCS 5/24-2(b) and (e), amended by P.A.s 101-642 and 102-15 and 103-467.~~

~~10 ILCS 5/1-24, added by P.A. 103-467 and scheduled to be repealed on 1-1-25, designated 2024 Election Day as a legal school holiday for the purposes of 105 ILCS 5/24-2 and requires any school closed on 2024 Election Day to make itself available to an election authority as a polling place on that date. No waiver exists for 2024 Election Day. 105 ILCS 5/24-2(b) and (e), amended by P.A.s 102-15 and 103-467.~~

### School Day

Teachers are required to work the school day adopted by the Board.<sup>5</sup> Teachers employed for at least four hours per day shall receive a duty-free lunch equivalent to the student lunch period, or 30 minutes, whichever is longer.<sup>6</sup>

The District accommodates employees who are nursing mothers according to provisions in State and federal law.<sup>7</sup>

### Salary

Teachers shall be paid according to the salaries fixed by the Board, but in no case less than the minimum salary provided by the School Code.<sup>8</sup> Teachers shall be paid at least monthly on a 10- or 12-month basis.<sup>9</sup>

### Assignments and Transfers<sup>10</sup>

The Superintendent is authorized to make teaching, study hall, extra class duty, and extracurricular assignments. In order of priority, except as otherwise provided by law, assignments shall be made based on the District's needs and best interests, employee qualifications, and employee desires.

**Commented [JD1]:** Footnote 10, which formerly appeared after the first sentence of the paragraph under this subhead, has been moved to the subhead title.

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>5</sup> A school day is required to consist of a minimum of five clock hours under the direct supervision of a teacher or non-teaching personnel or volunteer personnel that provides non-teaching or supervisory duties as specified in 105 ILCS 5/10-22.34(a) in order to qualify as a full day of attendance. 105 ILCS 5/10-19.05(a) and (j-5), amended by P.A. 103-560, eff. 1-1-24, added by P.A. 101-12 and amended by P.A. 101-643. See [www.isbe.net/school-calendar](http://www.isbe.net/school-calendar) for ISBE's instructional day changes notice regarding this law. See 105 ILCS 5/10-19.05, amended by P.A. 103-560, eff. 1-1-24, added by P.A. 101-12 and amended by P.A. 101-643, for additional exceptions to the attendance calculation.

<sup>6</sup> 105 ILCS 5/24-9.

<sup>7</sup> 29 U.S.C. §218(d), added by Pub.L. 117-328; 42 U.S.C. §2000gg et seq., added by Pub.L. 117-328; 740 ILCS 137/; 820 ILCS 260/. ~~Ill. law requires more of employers than federal law.~~ Consult the board attorney to ensure the district is properly accommodating nursing mothers. See [sample administrative procedure 5:10-AP, Workplace Accommodations for Nursing Mothers](#).

<sup>8</sup> 105 ILCS 5/10-20.7, 5/10-21.1, 5/24-1, and 5/24-8, amended by P.A. 103-515, amended by P.A. 101-443 (minimum salary). The Commission on Government Forecasting and Accountability is required to annually certify and publish the teacher minimum salary to be used for the 2024-2025 school year and each year thereafter. Salaries are a mandatory subject of collective bargaining. 115 ILCS 5/10. Annually, by Oct. 1, each district must: (1) during an open school board meeting, report salary and benefits information for the superintendent, administrators, and teachers; (2) publish that information on the district's website, if any; and (3) provide this information to ISBE. 105 ILCS 5/10-20.47. According to a Public Access Counselor (PAC) *Informal Mediation* letter interpreting 5 ILCS 120/7.3, an IMRF employer must post on its website the names of employees having a total compensation package that exceeds \$75,000 per year. 2012 PAC 19808 (Informal Mediation by the Ill. Attorney General's Public Access Counselor (PAC)); see PAC Annual Report for 2012 at [https://foiapac.ilag.gov/viewpdf.aspx?P=-/content/pdf/Public\\_Access\\_Counselor\\_Annual\\_Report\\_2012.pdf](https://foiapac.ilag.gov/viewpdf.aspx?P=-/content/pdf/Public_Access_Counselor_Annual_Report_2012.pdf).

<sup>9</sup> 105 ILCS 5/24-21.

<sup>10</sup> Districts are required to have a policy on the distribution of the listed assignments. 23 Ill.Admin.Code §1.420(d).

Absent an individual or collective bargaining agreement, the board has unilateral discretion to assign or retain a teacher to or in an extracurricular duty. Betebenner v. Bd. of Educ., 336 Ill.App. 448 (4th Dist. 1949); Dist. 300 Educ. Assoc. v. Bd. of Educ., 31 Ill.App.3d 550 (2nd Dist. 1975); Lewis v. Bd. of Educ., 181 Ill.App.3d 689 (5th Dist. 1989).

105 ILCS 5/22-95(a), added by P.A. 103-46, eff. 1-1-24, requires school districts, when hiring or assigning educators for physical education, music, or visual arts, to prioritize the hiring or assigning of educators who hold an educator license and endorsement in those areas. The law also requires professional educator licensure applicants to pass the licensure content area test for the content area the educator is assigned to teach or complete nine semester hours of coursework in the content area prior to the educator's employment start date, among other requirements. Id. At (b). However, the law does not make clear whether the licensure requirements in 105 ILCS 5/22-95(b), added by P.A. 103-46, eff. 1-1-24, apply only to physical education, music, and visual arts. Consult the board attorney to determine the applicability of these provisions.



School Social Worker Services Outside of District Employment

School social workers may not provide services outside of their District employment to any student(s) attending school in the District. *School social worker* has the meaning stated in 105 ILCS 5/14-1.09a.<sup>11</sup>

Dismissal

The District will follow State law when dismissing a teacher. <sup>12</sup>

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>11</sup> Optional. This subhead provides information to district employees and the community that 105 ILCS 5/14-1.09a prohibits school social workers from moonlighting by providing services to students attending the districts in which they are employed. Delete “5/10-20.65, 5/14-1.09a,” from the Legal References if the board deletes this subhead.

<sup>12</sup> All dismissal laws in the chart below were amended by the *Education Reform Acts*. 105 ILCS 5/24A-5.5, added by P.A. 101-591, requires districts to develop and implement a local appeals process for unsatisfactory ratings issued to teachers under 105 ILCS 5/24A-5, amended by P.A.s 101-643, 102-252, and 102-729. Districts must: (1) develop the process in cooperation with the bargaining unit or teachers, if applicable, and (2) include an assessment of the original rating by a panel of qualified evaluators agreed to by the PERA joint committee (105 ILCS 5/24A-4(b)).

<b>Non-tenure Teacher Discharge</b>	105 ILCS 5/24-11, amended by P.A.s <del>101-643 and 102-552</del> and 103-500.
<b>Tenured and Non-tenure Teachers</b> Reduction in Force	105 ILCS 5/24-12(b), amended by P.A.s 103-398, eff. 1-1-24, and <del>103-500</del> 101-643, and (c)
<b>Tenured Teacher Discharge</b> Where Cause Remediable	105 ILCS 5/24-12(d) (prior reasonable warning required), amended by P.A.s <del>101-531, 101-643, and 102-708</del> and 103-354, eff. 1-1-24. 105 ILCS 5/24-12(d) (procedural mandates), amended by P.A.s <del>101-531, 101-643, and 102-708</del> and 103-354, eff. 1-1-24. 105 ILCS 5/10-22.4 (general authority)
<b>Tenured Teacher Discharge</b> Where Cause Irremediable	105 ILCS 5/24-12(d) (no prior warning required) amended by P.A.s <del>101-531, 101-643, 102-708</del> and 103-354, eff. 1-1-24. 105 ILCS 5/24-12(d) (procedural mandates), amended by P.A.s 101-531, 101-643, and 102-708 and 103-354, eff. 1-1-24. 105 ILCS 5/10-22.4 (general authority)
<b>Tenured Teacher Discharge</b> Failure to complete remediation plan with a rating of <i>Proficient or Excellent</i>	105 ILCS 5/24A-5(m) (participation in remediation plan after unsatisfactory evaluation) 105 ILCS 5/24-12(d)(1), <del>amended by P.A. 101-643 (no prior warning required if cause(s) were subject of remediation plan)</del> 105 ILCS 5/24-12(d) (procedural mandates), amended by P.A.s <del>101-531, 101-643, and 102-708</del> and 103-354, eff. 1-1-24. 105 ILCS 5/10-22.4 (general authority)
<b>Tenured Teacher Discharge – Optional Alternative Evaluative Dismissal Process for PERA Evaluation</b> Failure to complete remediation plan with a <i>Proficient</i> or better rating 105 ILCS 5/24A-2.5	105 ILCS 5/24-16.5(d) (provide written notice) 105 ILCS 5/24-16.5 (pre-remediation and remediation procedural mandates) 105 ILCS 5/24-16.5(e) and (f) (school board makes final decision with only PERA-trained board members participating in vote)
<b>Tenured Teacher Discharge – Unsatisfactory PERA evaluation within 36 months of completing a remediation plan</b> 105 ILCS 5/24A-2.5	105 ILCS 5/24A-5(n), amended by P.A. 102-252 (forego remediation and proceed to dismissal) 105 ILCS 5/24-12(d) (procedural mandates), amended by P.A.s <del>101-531, 101-643, 102-708,</del> 105 ILCS 5/10-22.4 (general authority)

Evaluation

The District’s teacher evaluation system will be conducted under the plan developed pursuant to State law. <sup>13</sup>

On an annual basis, the Superintendent will provide the Board with a written report which outlines the results of the District’s teacher evaluation system.

LEGAL REF.: [29 U.S.C. §218\(d\), Pub. L. 117-328, Pump for Nursing Mothers Act.](#)  
[42 U.S.C. §2000gg et seq., Pub. L. 117-328, Pregnant Workers Fairness Act.](#)  
105 ILCS 5/10-19, 5/10-19.05, 5/10-20.65, 5/14-1.09a, [5/22-95](#), 5/22.4, 5/24-16.5,  
5/24-2, 5/24-8, 5/24-9, 5/24-11, 5/24-12, 5/24-21, 5/24A-1 through 24A-20.  
820 ILCS 260/, Nursing Mothers in the Workplace Act.  
23 Ill.Admin.Code Parts 50 (Evaluation of Educator Licensed Employees) and 51  
(Dismissal of Tenured Teachers).  
[Cleveland Bd. of Educ. v. Loudermill](#), 470 U.S. 532 (1985).

CROSS REF.: 5:120 (Employee Ethics; Code of Professional Conduct; and Conflict of Interest),  
5:290 (Employment Termination and Suspensions), 6:20 (School Year Calendar  
and Day)

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<b>Educational Support Personnel Employees</b> (non-licensed)	105 ILCS 5/10-23.5, amended by P.A.s <del>101-46 and 102-854.</del>
<b>Probationary Teacher</b> (non-tenure teacher)	105 ILCS 5/24-11, amended by P.A.s <del>101-643; 102-552, and 102-854, and 103-500.</del>

Various components of a RIF (e.g., impact and decision to RIF) and an evaluation plan (e.g., development, implementation, and impact) may be subject to mandatory collective bargaining. [Central City Educ. Assoc. v. IELRB](#), 149 Ill.2d 496 (Ill. 1992).

[105 ILCS 5/22-95, amended by PA 103-46, eff. 1-1-24, provides that in the event of a reduction in force, schools may follow the employee contract language for filling positions.](#)

Teacher RIF procedures were changed by 105 ILCS 5/24-12(b), amended by P.A. ~~103-398 and 103-500~~~~101-643~~, and (c). See *PERA Overview for School Board Members*, question 15, “What is the process for selecting teachers for a reduction in force/layoff (RIF)” at: [www.iasb.com/law/PERAoverview.pdf](http://www.iasb.com/law/PERAoverview.pdf).

State law does not prohibit a PERA joint committee from agreeing to put a teacher on a remediation plan if the teacher receives a second *needs improvement* (rather than *unsatisfactory*) rating after being on a professional development plan. [Bd. of Educ. Rockford Public Sch. v. Rentsch](#), [2022 IL App \(2d\) 210187212 N.E.3d 565 \(Ill. App. Ct. 2nd Dist. 2022\)](#).

According to a binding opinion from the Ill. Public Access Counselor, a board must identify an employee by name in a motion to dismiss him or her. PAO 13-16. As this may be a significant change in practice with possible other legal consequences, a board should consult with the board attorney on this issue before dismissing an employee.

<sup>13</sup> 105 ILCS 5/24A-5, amended by P.A.s 102-252, ~~and 102-729, and 103-85~~. Teacher evaluation plans are covered in *PERA Overview for School Board Members* at: [www.iasb.com/law/PERAoverview.pdf](http://www.iasb.com/law/PERAoverview.pdf).

## Professional Personnel

### Resignations <sup>1</sup>

~~Tenured~~ Teachers may resign at any time with consent of the School Board ~~or by written notice sent to the Board Secretary at least 30 days before the intended date of resignation. However, n~~ No teacher may resign during the school term in order to accept another teaching position without the consent of the Board. A teacher may resign outside of a school term if the teacher provides written notice to the secretary of the Board, at least 30 calendar days prior to the first student attendance day of the following school year. Teachers who resign with less than 30 days' notice prior to the first student attendance day of the following school term will be deemed to have resigned during the school term.

LEGAL REF.: 105 ILCS 5/24-14.  
Park Forest Heights School Dist. v. State Teacher Certification Bd., 363 Ill.App.3d 433 (1st Dist. 2006).

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>1</sup> State or federal law controls this policy's content.

Districts may want to add a liquidated damages clause to individual teacher contracts in order to discourage teacher resignations in violation of this policy and law. 105 ILCS 5/24-14, amended by P.A.s 102-552 and 103-549, refers to a school term as commencing on the first day of student attendance. The term school term is undefined in 105 ILCS 5/24-14. There have been occasions where a regional superintendent has interpreted the school term to begin on a teacher institute day, rather than a student attendance day. A teacher who resigns during the school term, without the board's permission, or who resigns in order to accept another teaching assignment may be referred by the board to the State Superintendent of Education, who shall convene an informal evidentiary hearing within 90 days after receipt of a district's referral-a resolution by the board. Id. 105 ILCS 5/24-14, amended by P.A.s 100-531 and 102-552. The referral to the State Superintendent must be submitted within 10 business days after the board denies acceptance of the resignation and contain: (1) a dated copy of the teacher's resignation letter; (2) a copy of the reporting district's current school year calendar; (3) proof of employment for the school year at issue; (4) documentation showing that the board did not accept the teacher's resignation; and (5) evidence that the teacher left the district in order to accept another teaching assignment. Id. The district must also notify the teacher of the referral within five business days after submitting it to the State Superintendent. Id. A teacher found guilty of resigning during the school term to accept another teaching position without board consent will have his or her license suspended for one calendar year. Id. In lieu of a hearing and finding, the teacher may agree to a lesser licensure sanction at the discretion of the State Superintendent. Id. See also Park Forest Heights Sch. Dist. v. State Teacher Certification Bd., 363 Ill.App.3d 433 (1st Dist. 2006)(regional superintendent may suspend for one year the teaching certificate of a tenured or nontenured teacher who resigns to accept another position).

For further guidance, see Ill. State Board of Education non-regulatory guidance on the Application of Section 24-14 of the Illinois School Code to Teacher Resignations (10-28-19) at: [www.isbe.net/Documents/section\\_24\\_14\\_guidance.pdf](http://www.isbe.net/Documents/section_24_14_guidance.pdf).

## Professional Personnel

### Substitute Teachers <sup>1</sup>

The Superintendent may employ substitute teachers as necessary to replace teachers who are temporarily absent.

A substitute teacher must hold either a valid teaching or substitute license and may teach in the place of a licensed teacher who is under contract with the Board.<sup>2</sup> There is no limit on the number of days that a substitute teacher may teach in the District during the school year, except as follows:<sup>3</sup>

1. A substitute teacher holding a substitute license may teach for any one licensed teacher under contract with the District only for a period not to exceed ~~120 days beginning with the 2021-2022 through the 2022-2023 school year, otherwise~~ 90 paid school days in any one school term.
2. A teacher holding a Professional Educator License<sup>4</sup> or Educator License with Stipulations<sup>5</sup> may teach for any one licensed teacher under contract with the District only for a period not to exceed 120 paid school days.

The Ill. Teachers' Retirement System (TRS) limits a substitute teacher who is a TRS annuitant to substitute teaching for a period not to exceed 120 paid days or 600 paid hours in each school year ~~through June 30, 2026~~, but not more than 100 paid days in the same classroom. Beginning July 1, 202~~6~~<sup>3</sup>, a substitute teacher who is a TRS annuitant may substitute teach for a period not to exceed 100 paid days or 500 paid hours in any school year, unless the subject area is one where the Regional Superintendent has certified that a personnel shortage exists.<sup>6</sup>

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>1</sup> State law controls this policy's content. [Sample pPolicy 5:30, Hiring Process and Criteria](#), contains the requirements for pre-employment investigations, e.g., a fingerprint based criminal history records check. See also [sample administrative procedure 5:30-AP2, Investigations](#). Each board may require new substitute teacher employees to furnish evidence of physical fitness to perform duties assigned and must require new substitute teacher employees to furnish evidence of freedom from communicable disease. 105 ILCS 5/24-5(b-5). Evidence may consist of a physical examination, which must be performed within 90 days before the time it is presented to the board, and the substitute teacher bears the cost of the physical examination. Id. A new or existing substitute teacher may also be subject to additional health examinations as required by the Ill. Dept. of Public Health or by order of a local public health official. Id.

<sup>2</sup> 23 Ill.Admin.Code §1.790(a)(2), requires that any individual who serves as a substitute teacher for driver's education be endorsed for driver's education pursuant to 23 Ill.Admin.Code §25.100(k). 23 Ill.Admin.Code §25.100(k) has been renumbered as 23 Ill.Admin.Code §25.100(h), however §1.790(a)(2) still cites to §25.100(k).

<sup>3</sup> Substitute teaching licenses are governed by 105 ILCS 5/21B-20(3), amended by P.A. 102-717; 23 Ill.Admin.Code §§1.790 and 25.520.

<sup>4</sup> Professional educator licenses are governed by 105 ILCS 5/21B-20(1) and 23 Ill.Admin.Code Part 25.

<sup>5</sup> Educator licenses with stipulations are governed by 105 ILCS 5/21B-20(2), amended by P.A.s ~~101-594 and~~ 102-894, ~~eff. 1-1-23~~, and 23 Ill.Admin.Code Part 25. 105 ILCS 5/21B-20(2)(E) permits an individual who holds a valid career and technical educator endorsement on an Educator License with Stipulations but who does not hold a bachelor's degree to substitute teach in career and technical education classrooms.

<sup>6</sup> 40 ILCS 5/16-118, amended by P.A.s ~~101-645 (specifying permissible paid days and hours for TRS annuitants)~~, 102-537, 102-709 (temporarily allowed for 140 paid days or 700 paid hours between 7-1-21 and 6-30-22), ~~103-88 and 103-525 (temporarily allows for 120 paid days or 600 paid hours in each school year through 6-30-26; after 6-30-26, substitute teachers will be allowed 100 paid days or 500 paid hours in each school year)~~ and 16-150.1, amended by P.A.s ~~101-49 and~~ 102-440 (TRS annuitants may return to teaching in a subject shortage area until 6-30-24). Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center [Executive Director](#)."

The School Board establishes a daily rate of pay for substitute teachers. Substitute teachers receive only monetary compensation for time worked and no other benefits. <sup>7</sup>

### Short-Term Substitute Teachers <sup>8</sup>

A short-term substitute teacher must hold a valid short-term substitute teaching license and have completed the District's short-term substitute teacher training program.<sup>9</sup> Unless otherwise permitted by law, short-term substitutes may teach no more than five consecutive school days for each licensed teacher who is under contract with the Board. <sup>10</sup>

### Emergency Situations <sup>11</sup>

A substitute teacher may teach when no licensed teacher is under contract with the Board if the District has an emergency situation as defined in State law. During an emergency situation, a substitute teacher is limited to 30 calendar days of employment per each vacant position. The Superintendent shall notify the appropriate Regional Office of Education (ROE) within five business days after the employment of a substitute teacher in an emergency situation. The Board may continue to employ the same substitute teacher in a vacant position for 90 calendar days or until the end of the semester, whichever is greater.

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The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>7</sup> If a board provides substitute teachers other benefits, it may consider listing them here.

<sup>8</sup> 105 ILCS 5/21B-20(4), amended by P.A. s 102-712 and ~~103-111 inoperative on and after 7-1-23~~, governs Short-Term Substitute Teaching Licenses, which may be issued from 7-1-18 until 6-30-~~23~~. Short-Term Substitute Teaching Licenses are not eligible for endorsements. Id. Applicants for a Short-Term Substitute Teaching License must hold an associate's degree or have completed at least 60 credit hours from a regionally accredited institution of higher education. Individuals who have had their Professional Educator License or Educator License with Stipulations suspended or revoked are not eligible to be short-term substitutes. Id.

<sup>9</sup> 105 ILCS 5/10-20.67, amended by P.A. ~~103-111, scheduled to be repealed on 7-1-23~~, requires boards to conduct this training. This requirement provides an opportunity for each board and the superintendent to examine all current policies, collective bargaining agreements, and administrative procedures on this subject. Each board may then want to have a conversation with the superintendent and direct him or her to develop a curriculum for a short-term substitute teacher training program that provides individuals who hold a Short-Term Substitute Teaching License with information on curriculum, classroom management techniques, school safety, and district and building operations. See also sample administrative procedure 5:220-AP, Substitute Teachers, and its f/n 3 in 5:220-AP. These expectations will be most effective when they reflect local conditions and circumstances. Training and curriculum for a short-term substitute teacher training program may be subjects of mandatory collective bargaining, therefore consulting with the board attorney should be a part of this process. A district would commit an unfair labor practice by implementing new programs for staff without first offering to negotiate them with the applicable exclusive bargaining representative.

School boards may choose to also offer this training program to individuals who hold a Substitute Teaching License and/or substitute teachers holding a Professional Educator License. This provision repeals on 7-1-23.

<sup>10</sup> Through 6-30-~~23~~, a district may hire a short-term substitute teacher holding a short-term substitute teaching license for up to 15 consecutive school days for each licensed teacher if the Governor has declared a disaster due to a public health emergency pursuant to the Ill. Emergency Management Agency Act, 20 ILCS 3305/7. 105 ILCS 5/21B-20(4), amended by P.A. s 102-712 and ~~103-111 inoperative on and after 7-1-23~~.

<sup>11</sup> 105 ILCS 5/21B-20(3), amended by P.A. 103-193, eff. 1-1-24. An *emergency situation* is defined as one where an unforeseen vacancy has occurred and (i) a teacher is unexpectedly unable to fulfill his or her contractual duties, or (ii) the district's teacher capacity needs exceed previous indications or vacancies are unfilled due to a lack of qualified candidates and the district is actively engaged in advertising to hire a fully licensed teacher for the vacant position. Id.

In order for a substitute teacher to remain in a vacant position for up to 90 days or until the end of the semester, whichever is greater, the position must remain vacant and the district must continue to actively seek qualified candidates and provide documentation to the Regional Office of Education that it has provided training specific to the position, including training on meeting the needs of students with disabilities and English learners if applicable. Id.

Use this alternative for districts in suburban Cook County: replace "Regional Office of Education (ROE)" with "Intermediate Service Center (ISC)."

if, prior to the end of the then current 30 calendar-day-period, the District makes a written request to the ROE for a 30 calendar-day-extension and the extension is granted by the ROE.

LEGAL REF.: 105 ILCS 5/10-20.68, 5/21B-20(2), 5/21B-20(3), and 5/21B-20(4).  
40 ILCS 5/16-118, Ill. Pension Code.  
23 Ill.Admin.Code §1.790 (Substitute Teacher) and §25.520 (Substitute Teaching License).

CROSS REF.: 5:30 (Hiring Process and Criteria)

## Professional Personnel

### Leaves of Absence <sup>1</sup>

Each of the provisions in this policy applies to all professional personnel to the extent that it does not conflict with an applicable collective bargaining agreement or individual employment contract or benefit plan; in the event of a conflict, such provision is severable and the applicable bargaining agreement or individual agreement will control.

### Sick and Bereavement Leave <sup>2</sup>

Each full-time professional staff member is granted 10 days sick leave each school year at full pay. Unused days are allowed to accumulate to 180 days. Sick leave is defined in State law as personal

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The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>1</sup> State or federal law controls this policy's content. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

This policy is consistent with the minimum requirements of State law. The local collective bargaining agreement may contain provisions that exceed these requirements. The introductory paragraph recognizes that an applicable collective bargaining agreement or individual employment contract will supersede a conflicting provision of the policy. It also provides policy coverage for those professional personnel who are not included in a bargaining unit or have employment contracts with conflicting provisions. Alternatively, if the policy's subject matter is superseded by a bargaining agreement, the board policy may state, "Please refer to the applicable collective bargaining agreement(s)."

Districts must coordinate leaves provided by State law and the local bargaining agreement with the leave granted by the Family and Medical Leave Act (FMLA) (29 U.S.C. §2612), amended by Sec. 565 of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111-84). The FMLA grants eligible employees 12 weeks unpaid leave each year for: (1) the birth and first-year care of a child; (2) the adoption or foster placement of a child; (3) the serious health condition of an employee's spouse, parent, or child; (4) the employee's own serious health condition; (5) the existence of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is on *covered active duty*; and (6) to care for the employee's spouse, child, parent, or next of kin who is a covered servicemember with a serious injury or illness. Districts are permitted to count paid leave (granted by State law or board policy) taken for an FMLA purpose against an employee's FMLA entitlement. 29 C.F.R. §825.207. See sample policy 5:185, *Family and Medical Leave*.

A plethora of State laws grant leaves to employees of the State and municipalities but are not applicable to school districts, including the Employee Blood Donation Leave Act (820 ILCS 149/), Local Government Disaster Service Volunteer Act (50 ILCS 122/), Organ Donor Leave Act (5 ILCS 327/), ~~and~~ Civil Air Patrol Leave Act (820 ILCS 148/), and Paid Leave for All Workers Act (820 ILCS 192/).

<sup>2</sup> The provisions in this section are required by 105 ILCS 5/24-6, amended by P.A.s 102-275, 102-697, and 102-866. Each specified number of days in this section is the statutory minimum. Before adopting this policy or applying its provisions, the district should examine any applicable bargaining agreements.

~~105 ILCS 5/24-6, amended by P.A.s 102-275, 102-697 and 102-866, requires districts to return any sick leave days used by a teacher for a qualifying COVID-19 related reason during the 2021-2022 school year, provided the teacher was "fully vaccinated against COVID-19" by 5-10-22. See f/n 26, below. The law prohibits districts from rescinding the returned sick leave in the event the definition of "fully vaccinated against COVID-19" is later updated by the Centers for Disease Control and Prevention (CDC) or the Ill. Dept. of Public Health (IDPH) to include recommended booster doses. 105 ILCS 5/24-6, amended by P.A.s 102-275, 102-697, and 102-866.~~

illness, mental or behavioral health complications, quarantine at home, serious illness or death in the immediate family or household, or birth, adoption, placement for adoption, or the acceptance of a child in need of foster care.

As a condition for paying sick leave after three days absence for personal illness or as the Board or Superintendent deem necessary in other cases, the Board or Superintendent may require that the staff member provide a certificate from: (1) a physician licensed in Illinois to practice medicine and surgery in all its branches, (2) a mental health professional licensed in Illinois providing ongoing care or treatment to the staff member, (3) a chiropractic physician licensed under the Medical Practice Act, (4) a licensed advanced practice registered nurse, (5) a licensed physician assistant who has been delegated the authority to perform health examinations by his or her supervising physician, or (6) if the treatment is by prayer or spiritual means, a spiritual adviser or practitioner of the employee's faith. If the Board or Superintendent requires a certificate during a leave of less than three days for personal illness, the District shall pay the expenses incurred by the employee.

Staff members are entitled to use up to 30 days of paid sick leave because of the birth of a child that is not dependent on the need to recover from childbirth. Such days may be used at any time within the 12-month period following the birth of the child. Intervening periods of nonworking days or school not being in session, such as breaks and holidays, do not count towards the 30 working school days. As a condition of paying sick leave beyond the 30 working school days, the Board or Superintendent may require medical certification.<sup>3</sup>

For purposes of adoption, placement for adoption, or acceptance of a child in need of foster care, paid sick leave may be used for reasons related to the formal adoption or the formal foster care process prior to taking custody of the child or accepting the child in need of foster care, and for taking custody of the child or accepting the child in need of foster care. Such leave is limited to 30 days, unless a longer leave is provided in an applicable collective bargaining agreement, and need not be used consecutively once the formal adoption or foster care process is underway. The Board or Superintendent may require that the employee provide evidence that the formal adoption or foster care process is underway.<sup>4</sup>

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Consult the board attorney about the Employee Sick Leave Act (ESLA). 820 ILCS 191/, amended by P.A. 102-4. It prohibits employers from limiting the use of sick time to an employee's own illnesses and allows employees to use employer-provided sick leave due to illness, injury, medical appointment, or *personal care* of a *covered family member*. *Id.* at 191/10(a), amended by P.A. 102-4. *Personal care* means: (1) activities to ensure a covered family member's basic medical, hygiene, nutritional, or safety needs are met, or to provide transportation to medical appointments, for a covered family member unable to meet those needs himself or herself; and (2) being physically present to provide emotional support to a covered family member with a serious health condition who is receiving inpatient or home care. *Id.* at 191/5, amended by P.A. 102-4. The ESLA defines *covered family members* as an employee's child, stepchild, spouse, domestic partner, sibling, parent, mother- or father-in-law, grandchild, grandparent, or stepparent. *Id.* Leave may be taken under the same terms for which the employee would be permitted to take leave for his or her own illness or injury.

<sup>3</sup> 105 ILCS 5/24-6, amended by P.A. 102-275, overturned the Illinois Supreme Court's decision in *Dynak v. Bd. of Educ. of Wood Dale Sch. Dist. 7*, 444 Ill.Dec. 651 (Ill. 2020) (finding that a teacher was not entitled to use 30 days of sick leave for birth consecutively before and after an intervening summer break). It is unclear from the language of the statute if an employee can be prohibited from *intermittent* use of 30 working sick days for birth, e.g., such as taking leave once a week. Consult the board attorney for guidance on this issue.

<sup>4</sup> 105 ILCS 5/24-6, amended by P.A.s 102-275, 102-697, and 102-866.



## Family Bereavement Leave <sup>5</sup>

State law allows a maximum of 10 unpaid work days for eligible employees (Family and Medical Leave Act of 1993, 20 U.S.C. §2601 et seq.) to take family bereavement leave. The purpose, requirements, scheduling, and all other terms of the leave are governed by the Family Bereavement Leave Act. Eligible employees may use family bereavement leave, without any adverse employment action, for: (1) attendance by the bereaved staff member at the funeral or alternative to a funeral of a covered family member, which includes an employee's child, stepchild, domestic partner, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent (2) making arrangements necessitated by the death of the covered family member, (3) grieving the death of the covered family member, or (4) absence from work due to a Significant Event, which includes: (i) miscarriage, (ii) an unsuccessful round of intrauterine insemination or of an assisted reproductive technology procedure, (iii) a failed adoption match or an adoption that is not finalized because it is contested by another party, (iv) a failed surrogacy agreement, (v) a diagnosis that negatively impacts pregnancy or fertility, or (vi) a still birth. An employee qualifying for leave due to a Significant Event will not be required to identify which specific reason applies to the employee's request.

The leave must be completed within 60 days after the date on which the employee received notice of the death of the covered family member or the date on which an event under item (4) above occurs. However, in the event of the death of more than one covered family member in a 12-month period, an employee is entitled to up to a total of six weeks of bereavement leave during the 12-month period, subject to certain restrictions under State and federal law. Other existing forms of leave may be substituted for the leave provided in the Family Bereavement Leave Act. This policy does not create any right for an employee to take family bereavement leave that is inconsistent with the Family Bereavement Leave Act.

## Child Extended Bereavement Leave <sup>6</sup>

Unpaid leave from work is available to employees who experience the loss of a child by suicide or homicide. The Child Extended Bereavement Leave Act governs the duration, scheduling, continuity of benefits, and all other terms of the leave. Accordingly, if the District employs 250 or more employees on a full-time basis, an employee is entitled to a total of 12 weeks of unpaid leave within one year after

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<sup>5</sup> Family Bereavement Leave Act, 820 ILCS 154/, amended by P.A. 102-1050, ~~eff. 1-1-23~~; 56 Ill. Admin. Code Part 252. These paragraphs discuss family bereavement leave. 820 ILCS 154/5, defines an *eligible employee* under the same terms as an employee under FMLA (29 U.S.C. 2601 et seq.). See f/n 1 above. The employer may require reasonable documentation as specified in 820 ILCS 154/10(d), amended by P.A. 102-1050, ~~eff. 1-1-23~~, but may not require that an employee identify which specific category under item (4) in the first paragraph of this subhead pertains to the leave. Note the term *Significant Event* does not appear in the statute; it is included in this sample policy as a shorthand term to refer to those events listed in 820 ILCS 154/10(a)(4).

*Domestic partner*, when used to refer to an unmarried employee, includes: (1) the person recognized as the domestic partner of the employee under any domestic partnership or civil union law of a state or political subdivision of a state, or (2) an unmarried adult who is in a committed, personal relationship with the employee, who is not a domestic partner as described in item (1) and who the employee designates as that employee's domestic partner. 820 ILCS 154/5, amended by P.A. 102-1050, ~~eff. 1-1-23~~.

The Act also provides that the leave must be completed within 60 days of the employee learning of the death of his or her *covered family member*, as defined by 820 ILCS 154/5. However, that 60-day limitation does not apply when more than one covered family member dies in a 12-month period. There may be times when an employer may want to grant more than 10 unpaid work days, e.g., when a deceased covered family member lived in a foreign country, etc. Consult the board attorney to resolve the complexities of determining whether an employee is an eligible employee under the FMLA that would trigger this Act.

<sup>6</sup> 820 ILCS 156/, added by P.A. 103-466. Delete this subhead and the Legal Reference to 820 ILCS 156/, Child Extended Bereavement Leave Act, if the district has fewer than 50 full-time employees.

[the employee notifies the District of the loss.<sup>7</sup> An employee may elect to substitute other forms of leave to which the employee is entitled for the leave provided under the Child Extended Bereavement Leave Act.](#)

### Sabbatical Leave<sup>8</sup>

Sabbatical leave may be granted in accordance with the School Code.

### Personal Leave<sup>9</sup>

Professional staff members are granted one personal leave day per year. A personal leave day is defined as a day to allow professional personnel time to conduct personal business (but not vacation, travel, or work stoppage), which is impossible to schedule at a time other than during a school day. Any unused personal leave day in a school year will be credited to the cumulative sick leave.

The use of a personal day is subject to the following conditions:

1. Except in cases of emergency or unavoidable situations, personal leave requests should be submitted to the Building Principal three days in advance of the requested date,
2. No personal leave days may be used immediately before or immediately after a holiday unless the Superintendent grants prior approval,
3. Personal leave may not be used in increments of less than one-half day,
4. Personal leave days are subject to a substitute's availability,
5. Personal leave days may not be used during the first and/or last five days of the school year,
6. Personal leave days may not be used on in-service and/or institute training days, and
7. Personal leave may not be used by more than 10% of the teaching staff in each building at the same time.

### Leave of Absence Without Pay<sup>10</sup>

The Board may grant a leave of absence without pay to tenured professional staff members who have rendered satisfactory service and desire to return to employment in a similar capacity at a time determined by the Board.

Each leave of absence shall be of the shortest possible duration required to meet the leave's purpose consistent with a reasonable continuity of instruction for students.

### Leave to Serve as an Election Judge<sup>11</sup>

Any staff member who was appointed to serve as an election judge under State law may, after giving at least 20-days' written notice to the District, be absent without pay for the purpose of serving as an

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<sup>7</sup> [If the district employs at least 50 but fewer than 250 employees on a full-time basis, substitute the following sentence: "Accordingly, if the District employs at least 50 but not more than 249 employees on a full-time basis, an employee is entitled to a total of six weeks of unpaid leave within one year after the employee notifies the District of the loss." 820 ILCS 156/10, added by P.A. 103-466.](#)

<sup>8</sup> State law provides guidelines for sabbatical leaves but does not require boards to offer them. 105 ILCS 5/24-6.1.

<sup>9</sup> State law does not address personal leave. It is not uncommon for professional staff to be granted more than one day of personal leave per year.

<sup>10</sup> State law does not address leaves of absence without pay other than stating that a mutually agreed leave will not affect a teacher's contractual continued service. 105 ILCS 5/24-13.

<sup>11</sup> This paragraph restates 10 ILCS 5/13-2.5. The statute does not state whether the notice requirement is *calendar* days or *business* days. Support for it being *calendar* days is found in 10 ILCS 5/1-6; support for it being *business* days is found in 10 ILCS 5/1-3.

election judge. The staff member is not required to use any form of paid leave to serve as an election judge. No more than 10% of the District's employees may be absent to serve as election judges on the same Election Day.

### Child-Rearing Leave <sup>12</sup>

The Board shall grant a professional staff member's request for a non-paid, child-rearing leave, not to exceed the balance of the school year plus one additional school year (but in no event shall such leave exceed three semesters), provided the request complies with this policy. Nothing in this section shall prohibit a professional staff member from using paid sick days as provided in this policy. <sup>13</sup>

A teacher should request, if possible, a child-rearing leave by notifying the Superintendent in writing no later than 90 days before the requested leave's beginning date.<sup>14</sup> The request should include the proposed leave dates. The leave shall end before a new school year begins or before the first day of school after winter recess. <sup>15</sup>

Subject to the insurance carrier's approval, the teacher may maintain insurance benefits at his or her own expense during a child-rearing leave.

A professional staff member desiring to return before the leave's expiration will be assigned to an available vacancy for which the teacher is qualified, subject to scheduling efficiency and instruction continuity.

### Leaves for Service in the Military <sup>16</sup>

Leaves for service in the U.S. Armed Services or any of its reserve components and the National Guard, as well as re-employment rights, will be granted in accordance with State and federal law. A professional staff member hired to replace one in military service does not acquire tenure.

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Rather than duplicate the statute's requirements in separate policies, sample policy 5:330, *Sick Days, Vacation, Holidays, and Leaves*, grants the leave to support personnel on the terms applicable to professional staff.

<sup>12</sup> The School Code does not address child-rearing. FMLA grants eligible employees a combined total of 12 weeks each year, with exceptions for teachers at the end of the school year, for, among other things, a child's: (1) birth and first-year care, and (2) adoption or foster placement (see sample policy 5:185, *Family and Medical Leave*). Districts not covered by the FMLA must treat a request for child-care leave to care for an adopted infant on terms comparable to those given biological mothers. McWright v. Alexander, 982 F.2d 222 (7th Cir. 1992).

<sup>13</sup> Districts offering a child-rearing or maternity leave must be very careful not to violate anti-discrimination laws. Districts can prohibit pregnant teachers from combining paid disability leave with an unpaid maternity leave, provided that non-pregnant teachers are likewise prohibited from combining a paid disability leave with an unpaid general leave of absence. Maganuco v. Leyden Comm. High Sch. Dist. 212, 939 F.2d 440 (7th Cir. 1991); U.S. v. Consol. High Sch. Dist. 230, 983 F.2d 790 (7th Cir. 1993); E.E.O.C. v. Elgin Teachers' Ass'n, 780 F.Supp. 1195 (N.D.Ill. 1991). A sick leave bank exclusion of maternity benefits violates Title VII. U.S. v. Consol. High Sch. Dist. 230, *supra*.

<sup>14</sup> The length of the notice - here 90 days - is *not* covered by State or federal law. If an employee fails to provide this notice, the employee still has the right to request a family and medical leave which has a much shorter notice requirement (see sample policy 5:185, *Family and Medical Leave*), and could be followed by a child-rearing leave.

<sup>15</sup> For a high school, omit "the first day of school after winter recess" and insert "at the semester break." Alternatively, the board may want to be more flexible by stating:

Every effort shall be made to have the leave minimally interrupt instructional continuity by ending . . .

<sup>16</sup> Required by the School Code (105 ILCS 5/10-20.7b, 5/24-13, and 5/24-13.1); the Service Member Employment and Reemployment Rights Act (330 ILCS 61/, streamlining several job-related protection laws into one statute, mandating leave for *active service*, and requiring the public employer to make up the difference between military pay and regular compensation); and the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. §4301 *et seq.*).

### General Assembly Leave <sup>17</sup>

Leaves for service in the General Assembly, as well as re-employment rights, will be granted in accordance with State and federal law. A professional staff member hired to replace one in the General Assembly does not acquire tenure.

### Leave for Employment in Department of Defense <sup>18</sup>

The Board may grant teachers a leave of absence to accept employment in a Dept. of Defense overseas school.

### School Visitation Leave

An eligible professional staff member is entitled to eight hours during any school year, no more than four hours of which may be taken on any given day, to attend school conferences, behavioral meetings, or academic meetings related to the teacher's child, if the conference or meeting cannot be scheduled during non-work hours.<sup>19</sup> Professional staff members must first use all accrued vacation leave, personal leave, compensatory leave, and any other leave that may be granted to the professional staff member, except sick, and disability leave. <sup>20</sup>

The Superintendent shall develop administrative procedures implementing this policy consistent with the School Visitation Rights Act. <sup>21</sup>

### Leaves for Victims of Domestic Violence, Sexual Violence, Gender Violence, or Other Crime of Violence <sup>22</sup>

An unpaid leave from work is available to any staff member who: (1) is a victim of domestic violence, sexual violence, gender violence, or any other crime of violence or (2) has a family or household member who is a victim of such violence whose interests are not adverse to the employee as it relates to the domestic violence, sexual violence, gender violence, or any other crime of violence. The unpaid

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<sup>17</sup> Required by 105 ILCS 5/24-13.

<sup>18</sup> State law provides guidelines for Dept. of Defense leaves but does not require boards to offer them. 105 ILCS 5/24-13.1.

<sup>19</sup> 820 ILCS 147/15, ~~amended by P.A. 101-486.~~

<sup>20</sup> Id. The school visitation leave entitlement applies to both professional and educational support personnel. Rather than duplicate its requirements in separate policies, sample policy 5:330, *Sick Days, Vacation, Holidays, and Leaves*, grants the leave on the same terms applicable to professional staff.

<sup>21</sup> 820 ILCS 147/. Parents of children with *serious health conditions* may also be eligible to use FMLA leave for individualized education program (IEP) meetings. See U.S. Dept. of Labor *Wage and Hour Division Opinion Letter*, FMLA 2019-2-A (8-8-19), available at: [www.dol.gov/sites/dolgov/files/WHD/legacy/files/2019\\_08\\_08\\_2A\\_FMLA.pdf](http://www.dol.gov/sites/dolgov/files/WHD/legacy/files/2019_08_08_2A_FMLA.pdf).

<sup>22</sup> Required by the Victims' Economic Security and Safety Act, (VESSA) (820 ILCS 180/, amended by P.A.s ~~101-221, 102-487, and 102-890, and 103-314, eff. 1-1-24,~~ and 56 Ill.Admin.Code Part 280). *Gender violence* means: (1) one or more acts of violence or aggression that is a criminal offense under State law committed, at least in part, on the basis of a person's actual or perceived sex or gender, (2) a physical intrusion or invasion of a sexual nature under coercive conditions that is a criminal offense under State law, or (3) a threat to commit one of these acts. 820 ILCS 180/10(12.5), ~~added by P.A. 101-221.~~ *Other crime of violence* means conduct prohibited by 720 ILCS 5/9 (homicide), 720 ILCS 5/11 (sex offenses), 720 ILCS 5/12 (bodily harm), 720 ILCS 5/26.5 (harassing and obscene communications), 720 ILCS 5/29D (terrorism), and 720 ILCS 5/33A (armed violence), or similar provisions of the Criminal Code of 1961. 820 ILCS 180/10(2.5), added by P.A. 102-487. *Sexual violence* is not specifically defined in VESSA. While the law applies to all school districts (820 ILCS 180/10(10)), the number of employees determines the number of total workweeks of leave available during any 12-month period (820 ILCS 180/20(a)(2)). The term *employee* includes part-time workers. The Ill. Dept. of Labor must furnish to all employers a notice summarizing the law's requirements (*Your Rights Under Illinois Employment Laws* at: <https://labor.illinois.gov/employers/posters.html> ~~www2.illinois.gov/idol/Documents/flsposter.pdf~~). All districts must post this notice in a conspicuous place where notices to employees are customarily posted.

leave allows the employee to seek medical help, legal assistance, counseling, safety planning, and other assistance, [and to grieve and attend to matters necessitated by the death of a family or household member who is killed in a crime of violence](#), without suffering adverse employment action.

The Victims' Economic Security and Safety Act ([VESSA](#)) governs the purpose, requirements, scheduling, and continuity of benefits, and all other terms of the leave. Accordingly, if the District employs at least 50 employees, [and subject to any exceptions in VESSA](#), an employee is entitled to a total of 12 work weeks of unpaid leave during any 12-month period.<sup>23</sup> Neither the law nor this policy creates a right for an employee to take unpaid leave that exceeds the unpaid leave time allowed under, or is in addition to the unpaid leave time permitted by, the federal Family and Medical Leave Act of 1993 (29 U.S.C. §2601 *et seq.*).<sup>24</sup>

#### Leaves to Serve as an Officer, ~~or~~ Trustee, or Representative of a Specific Organization

Upon request, the Board will grant: (1) an unpaid leave of absence to an elected officer of a State or national teacher organization that represents teachers in collective bargaining negotiations,<sup>25</sup> (2) [up to twenty days of paid leave of absence per year to a trustee of the Teachers' Retirement System in accordance with 105 ILCS 5/24-6.3,<sup>26</sup> and](#) (3) a paid leave of absence for the local association president of a State teacher association that is an exclusive bargaining agent in the District, or his or her designee, to attend meetings, workshops, or seminars as described in 105 ILCS 5/24-6.2,<sup>27</sup> [and \(4\) up to 10 days of paid leave per school term for teachers elected to represent a statewide teacher association in federal advocacy work in accordance with 105 ILCS 5/24-3.5.<sup>28</sup>](#)

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<sup>23</sup> If the district employs fewer than 50 employees, it may substitute the following sentence: "Accordingly, if the District employs at least 15 but not more than 49 employees, [and subject to any exceptions in VESSA](#), an employee is entitled to a total of eight work weeks of unpaid leave during any 12-month period." 820 ILCS 180/20(a)(2), [amended by P.A. 103-314, eff. 1-1-24.](#)

If the district employs at least one but not more than 14 employees, it may substitute the following sentence: "Accordingly, if the District employs at least one but not more than 14 employees, [and subject to any exceptions in VESSA](#), an employee is entitled to a total four (4) work weeks of leave during any 12-month period." ~~Id~~ [820 ILCS 180/20\(a\)\(2\).](#)

[Under 820 ILCS 180/20\(a\)\(4\), added by P.A. 103-314, eff. 1-1-24, an employee is not entitled to more than two work weeks \(10 work days\) if the leave is to attend a wake or funeral \(or an alternative event\), make end-of-life arrangements, or grieve due to the death of a family or household member killed in a crime of violence. In these circumstances, the leave must be completed within 60 days after the date on which the employee receives notice of the death. Employees may qualify for unpaid leave under both VESSA and the Family Bereavement Leave Act; leave taken under one act does not diminish the availability of leave under the other. Id.](#)

<sup>24</sup> VESSA states that an employee does not have a right to take unpaid leave that exceeds the unpaid leave time allowed under the FMLA. 820 ILCS 180/20(a)(2). Section 25 creates an ambiguity by stating, "[t]he employer may not require the employee to substitute available paid or unpaid leave for [leave available to victims of domestic violence, sexual violence, or gender violence]," 820 ILCS 180/25, [amended by P.A. ~~101-221~~ and 102-487](#). Contact the board attorney for advice resolving this ambiguity.

<sup>25</sup> Required by 105 ILCS 5/24-13.

<sup>26</sup> Required by 105 ILCS 5/24-6.3(a). See sample policy 5:330, *Sick Days, Vacation, Holidays, and Leaves*, for the leave for an elected trustee for the Ill. Municipal Retirement Fund.

<sup>27</sup> Required by 105 ILCS 5/24-6.2.

<sup>28</sup> [105 ILCS 5/24-3.5, added by P.A. 103-308, eff. 1-1-24. The statewide teacher association is required to reimburse a district for substitute teaching costs incurred due to the teacher's absence. Id.](#)

## COVID-19 Paid Administrative Leave <sup>29</sup>

~~During any time when the Governor has declared a disaster due to a public health emergency under 20 ILCS 3305/7, When applicable, paid administrative leave related to COVID-19 will be granted is available to eligible employees in accordance with State law, if the District, State or any of its agencies, or the local health department has issued guidance, mandates, or rules related to COVID-19 that restrict an employee from being on District property for a reason outlined in State law.~~

~~For an employee to be eligible for COVID-19 paid administrative leave, the employee must be fully vaccinated against COVID-19 as defined in 105 ILCS 5/10-20.83 (final citation pending).<sup>30</sup>~~

~~The employee will receive as many days of administrative leave as required to abide by the public health guidance, mandates, and requirements issued by the Ill. Dept. of Public Health, unless a longer period has been negotiated with the exclusive bargaining representative.~~

~~As a condition of being granted COVID-19 paid administrative leave, an employee shall provide all documentation necessary to substantiate the employee's eligibility for the leave, as requested by the Superintendent or designee.<sup>31</sup> An employee who is on COVID-19 paid administrative leave will receive the employee's regular rate of pay; the leave will not diminish any other leave or benefits of the employee.<sup>32</sup> Employees may not accrue COVID-19 paid administrative leave.<sup>33</sup>~~

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>29</sup> ~~Required by~~ 105 ILCS 5/10-20.83 (final citation pending), added by P.A. 102-697. Whether some or all of the COVID-19 related reasons listed in 105 ILCS 5/10-20.83(b) and (c) (final citation pending) apply will depend upon current health guidance and/or rules. ~~The law requires that this leave also be provided retroactively to an employee for a qualifying reason prior to 4-5-22 if the employee was fully vaccinated by 5-10-22. Id. at (b).~~ The law prohibits districts from rescinding the paid leave if the definition of "fully vaccinated against COVID-19" is later updated by the CDC or IDPH to include recommended booster doses. Id.

Consult the board attorney for guidance about whether the board must accommodate an employee's religion or disability by exempting the employee from the COVID-19 vaccination prerequisite in 105 ILCS 5/10-20.83 (final citation pending), added by P.A. 102-697, and/or if the board and union may agree that this leave will extend to all unvaccinated employees. Title VII of the Civil Rights Act of 1964 requires employers to accommodate an employee's sincere religious objection to an employer vaccination requirement unless doing so would be an "undue hardship" on the employer. 42 U.S.C §2000e(j). Similarly, the Americans with Disabilities Act requires an employer to exempt an employee with a disability (including pregnancy-related disability) from a safety-related standard, such as a vaccination requirement, unless the employee poses a *direct threat* to the health or safety of the employee or others while on the job. 29 C.F.R. §1630.2(r). See also the U.S. Equal Employment Opportunity Commission guidance document, *What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws*, at: [www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws](http://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws).

<sup>30</sup> ~~105 ILCS 5/10-20.83(g) (final citation pending), added by P.A. 102-697. "Fully vaccinated against COVID-19" means: (1) two weeks after receiving the second dose in a two-dose series of a COVID-19 authorized for emergency use, licensed, or otherwise approved by the U.S. Food and Drug Administration (FDA), or (2) two weeks after receiving a single dose of a COVID-19 vaccine authorized for emergency use, licensed, or otherwise approved by the FDA. If the CDC later revises the definition of "fully vaccinated against COVID-19" to include booster doses, and the IDPH adopts the CDC's revised definition, then employees will have five weeks after IDPH's action to receive a booster (if eligible) to remain eligible for COVID-19 paid administrative leave. Id. at (a).~~

~~If the board requires fully vaccinated employees to participate in a district COVID-19 testing program, add the phrase "and participate in the District's COVID-19 testing program" to the end of this sentence. Id.~~

<sup>31</sup> ~~This sentence is optional. 105 ILCS 5/10-20.83(d) (final citation pending), added by P.A. 102-697. It is a best practice for boards to require appropriate documentation to verify employee eligibility for the leave benefit.~~

<sup>32</sup> ~~Id. at (e).~~

<sup>33</sup> ~~Id. at (f).~~

LEGAL REF.: 105 ILCS 5/10-20.83-~~(final citation pending)~~, 5/24-6, 5/24-6.1, 5/24-6.2, 5/24-6.3,  
5/24-13, and 5/24-13.1.  
10 ILCS 5/13-2.5, Election Code.  
330 ILCS 61/, Service Member Employment and Reemployment Rights Act.  
820 ILCS 147/, School Visitation Rights Act.  
820 ILCS 154/, ~~Child~~Family Bereavement Leave Act.  
[820 ILCS 156/, Child Extended Bereavement Leave Act.](#)  
820 ILCS 180/, Victims' Economic Security and Safety Act.

CROSS REF.: 5:180 (Temporary Illness or Temporary Incapacity), 5:185 (Family and Medical  
Leave), 5:330 (Sick Days, Vacation, Holidays, and Leaves)

## Educational Support Personnel

### Sick Days, Vacation, Holidays, and Leaves <sup>1</sup>

Each of the provisions in this policy applies to all educational support personnel to the extent that it does not conflict with an applicable collective bargaining agreement or individual employment contract or benefit plan; in the event of a conflict, such provision is severable and the applicable bargaining agreement or individual agreement will control.

### Sick and Bereavement Leave <sup>2</sup>

Full or part-time educational support personnel who work at least 600 hours per year receive 10 paid sick leave days per year. Part-time employees will receive sick leave pay equivalent to their regular

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<sup>1</sup> State or federal law controls this policy's content. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

This policy is consistent with the minimum requirements of State law. The local collective bargaining agreement may contain provisions that exceed these requirements. The introductory paragraph recognizes that an applicable collective bargaining agreement or individual employment contract will supersede a conflicting provision of the policy. Alternatively, if the policy's subject matter is superseded by a bargaining agreement, the board policy may state, "Please refer to the applicable collective bargaining agreement."

Districts must coordinate leaves provided by State law and the local bargaining agreement with the leave granted by the Family and Medical Leave Act (FMLA) (29 U.S.C. §2612), amended by Sec. 565 of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111-84). The FMLA grants eligible employees 12 weeks unpaid leave each year for: (1) the birth and first-year care of a child; (2) the adoption or foster placement of a child; (3) the serious health condition of an employee's spouse, parent, or child; (4) the employee's own serious health condition; (5) the existence of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is on (or has been notified of an impending call to) *covered active duty* in the Armed Forces; and (6) to care for the employee's spouse, child, parent, or next of kin who is a covered service member with a serious injury or illness. The definition of *covered servicemember* includes a veteran "who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness" if the veteran was a member of the Armed Forces "at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy." 29 U.S.C. §2611(15). Districts are permitted to count paid leave (granted by State law or board policy) taken for an FMLA purpose against an employee's FMLA entitlement. 29 C.F.R. §825.207. See sample policy 5:185, *Family and Medical Leave*.

A plethora of State laws grant leaves to employees of the State and municipalities, but are not applicable to school districts, including the Employee Blood Donation Leave Act (820 ILCS 149/), Local Government Disaster Service Volunteer Act (50 ILCS 122/), Organ Donor Leave Act (5 ILCS 327/), ~~and~~ Civil Air Patrol Leave Act (820 ILCS 148/), and Paid Leave for All Workers Act (820 ILCS 192/).

<sup>2</sup> This section contains the minimum benefits provided by 105 ILCS 5/24-6, amended by P.A. 102-275, 102-697, and 102-866. Each specified number of days in this section is the statutory minimum. The School Code does not address whether an employee's 10 paid sick leave days are available upon employment, accrued over months, or after working for a certain period of time, e.g., one year. Also be aware that the Employee Sick Leave Act (ESLA) (820 ILCS 191/, amended by P.A. 102-4) allows employees to use employer-provided sick leave due to illness, injury, medical appointment, or *personal care of a covered family member*. See sample policy 5:250, *Leaves of Absence*, at f/n 2 for more information about the scope and application of the ESLA. Leave may be taken under the same terms for which the employee would be permitted to take leave for his or her own illness or injury.

Before adopting this policy or applying its provisions, the district should examine any applicable bargaining agreements. Strict accounting of unused sick days is important to avoid:

1. Employees accumulating sick time on a full-time basis when they are truly working part-time hours;
2. Inconsistent treatment; and



workday. Unused sick leave shall accumulate to a maximum of 180 days, including the leave of the current year.<sup>3</sup>

Sick leave is defined in State law as personal illness, mental or behavioral complications, quarantine at home, serious illness or death in the immediate family or household, or birth, adoption, placement for adoption, or the acceptance of a child in need of foster care. The Superintendent or designee shall monitor the use of sick leave.

As a condition for paying sick leave after three days absence for personal illness or as the Board or Superintendent deem necessary in other cases, the Board or Superintendent may require that the staff member provide a certificate from: (1) a physician licensed in Illinois to practice medicine and surgery in all its branches, (2) a mental health professional licensed in Illinois providing ongoing care or treatment to the staff member (3) a chiropractic physician licensed under the Medical Practice Act, (4) a licensed advanced practice registered nurse, (5) a licensed physician assistant who has been delegated the authority to perform health examinations by his or her supervising physician, or (6) if the treatment is by prayer or spiritual means, a spiritual adviser or practitioner of the employee's faith. If the Board or Superintendent requires a certificate during a leave of less than three days for personal illness, the District shall pay the expenses incurred by the employee.

Employees are entitled to use up to 30 days of paid sick leave because of the birth of a child that is not dependent on the need to recover from childbirth. Such days may be used at any time within the 12-month period following the birth of the child. Intervening periods of nonworking days or school not being in session, such as breaks and holidays, do not count towards the 30 working school days. As a

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3. Inaccurate reporting to IMRF (credit is given for full day unused sick days upon retirement). 40 ILCS 5/7-139(a)(8).

105 ILCS 5/24-6, amended by P.A.s 102-275, 102-697, and 102-866, requires districts to return any sick leave days used by educational support personnel for a qualifying COVID-19 related reason during the 2021-2022 school year, provided the employee was "fully vaccinated against COVID-19" by 5-10-22. See sample policy 5:250, *Leaves of Absence*, at f/n 2, for more information.

<sup>3</sup> As this policy is consistent with the minimum requirements of State law, this provision on the maximum number of sick days that may be accumulated is based on the minimum number required as stated in 105 ILCS 5/24-6, amended by P.A.s 102-275, 102-697, and 102-866. The number may be increased to meet or exceed the number IMRF will recognize for retirement credit purposes. The following alternative does this: "Unused sick leave shall accumulate to the maximum number of days that IMRF will recognize for retirement credit purposes."

The following optional provisions apply to boards that want to address the IMRF's requirement that public bodies must have a written plan allowing eligible employees to convert their eligible accumulated sick leave to service credit upon their retirement. See 40 ILCS 5/7-139(a)(8). See also IMRF General Memorandum #555 at:

[www.imrf.org/en/publications-and-archive/general-memos/2007-general-memos/general-memo-555](http://www.imrf.org/en/publications-and-archive/general-memos/2007-general-memos/general-memo-555).

**Option 1:** No collective bargaining agreement applies and the board wants to publicize its written plan. Insert the following sentence: This policy is the District's written plan allowing eligible employees to convert eligible accumulated sick leave to service credit upon a District employee's retirement under the Ill. Municipal Retirement Fund.

**Option 2:** A local collective bargaining agreement contains the written plan and the board wants to publicize it. Insert the following sentence: Please refer to the applicable collective bargaining agreement(s) for the District's written plan allowing eligible employees to convert eligible accumulated sick leave to service credit upon an employee's retirement under the Ill. Municipal Retirement Fund.

**Option 3:** A district maintains two separate sick leave plans, one for employees under a collective bargaining agreement, and one for non-unionized employees. Insert the text for both Option 1 and Option 2.

**Note:** If Options 1, 2, or 3 are chosen, add 40 ILCS 5/7-139 to the Legal References. If the board does not have a written sick leave plan for purposes of IMRF sick leave to service credit conversion or does not wish to include it in the policy, do not include any of the options above or add the citation to the Legal References.

condition of paying sick leave beyond the 30 working school days, the Board or the Superintendent may require medical certification. <sup>4</sup>

For purposes of adoption, placement for adoption, or acceptance of a child in need of foster care, paid sick leave may be used for reasons related to the formal adoption or the formal foster care process prior to taking custody of the child or accepting the child in need of foster care, and for taking custody of the child or accepting the child in need of foster care. Such leave is limited to 30 days, unless a longer leave is provided in an applicable collective bargaining agreement, and need not be used consecutively once the formal adoption or foster care process is underway. The Board or Superintendent may require that the employee provide evidence that the formal adoption or foster care process is underway. <sup>5</sup>

Vacation <sup>6</sup>

Twelve-month employees shall be eligible for paid vacation days according to the following schedule:

<u>Length of Employment</u>		<u>Monthly Accumulation</u>	<u>Maximum Vacation Leave Earned Per Year</u>
<u>From:</u>	<u>To:</u>		
Beginning of year 2	End of year 5	0.83 Days	10 Days per year
Beginning of year 6	End of year 15	1.25 Days	15 Days per year
Beginning of year 16	End of year	1.67 Days	20 Days per year

Part-time employees who work at least half-time are entitled to vacation days on the same basis as full-time employees, but the pay will be based on the employee’s average number of part-time hours per week during the last vacation accrual year. The Superintendent will determine the procedure for requesting vacation.

Vacation days earned in one fiscal year must be used by the end of the following fiscal year; they do not accumulate. Employees resigning or whose employment is terminated are entitled to the monetary equivalent of all earned vacation. <sup>7</sup>

Holidays <sup>8</sup>

Unless the District has a waiver or modification of the School Code pursuant to Section 2-3.25g or 24-2(b) allowing it to schedule school on a legal school holiday listed below, District employees will not be required to work on:

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<sup>4</sup> 105 ILCS 5/24-6, amended by P.A.s 102-275, 102-697, and 102-866.

<sup>5</sup> 105 ILCS 5/24-6, amended by P.A.s 102-275, 102-697, and 102-866.

<sup>6</sup> State law does not require districts to give employees vacations.

<sup>7</sup> Required by 820 ILCS 115/5 and 56 Ill.Admin.Code §300.520 (Earned Vacations).

<sup>8</sup> Holidays are listed in 105 ILCS 5/24-2(a), (e), amended by P.A.s ~~101-642~~, 102-14, 102-15, ~~and~~ 102-334, 103-395, eff. 1-1-24, and 103-467; 10 ILCS 5/1-24, added by P.A. 103-467 and scheduled to be repealed on 1-1-25 ~~10 ILCS 5/2A 1-1e, added by P.A. 102-15 and scheduled to be repealed on 1-1-23~~. For information on the waiver process allowed by 105 ILCS 5/24-2(b), see [sample exhibit 2:20-E, Waiver and Modification Request Resource Guide](#). Holidays not specified in the School or Election Codes may be added to the policy; however, boards adding additional holidays should monitor and review to ensure the list remains current.

New Year's Day  
Martin Luther King Jr.'s Birthday  
Abraham Lincoln's Birthday  
Casimir Pulaski's Birthday  
Memorial Day  
Juneteenth National Freedom Day  
Independence Day

Labor Day  
Columbus Day  
Veterans Day  
2024<sup>2</sup> Election Day  
Thanksgiving Day  
Christmas Day

A holiday will not cause a deduction from an employee's time or compensation. The District may require educational support personnel to work on a school holiday during an emergency or for the continued operation and maintenance of facilities or property.

### Personal Leave<sup>9</sup>

Full-time educational support personnel have one paid personal leave day per year. The use of a personal day is subject to the following conditions:

1. Except in cases of emergency or unavoidable situations, a personal leave request should be submitted to the Building Principal three days before the requested date.
2. No personal leave day may be used immediately before or immediately after a holiday, or during the first and/or last five days of the school year, unless the Superintendent grants prior approval.
3. Personal leave may not be used in increments of less than one-half day.
4. Personal leave is subject to any necessary replacement's availability.
5. Personal leave may not be used on an in-service training day and/or institute training days.
6. Personal leave may not be used when the employee's absence would create an undue hardship.

### Leave to Serve as a Trustee of the Ill. Municipal Retirement Fund

Upon request, the Board will grant 20 days of paid leave of absence per year to a trustee of the Ill. Municipal Retirement Fund in accordance with State law.<sup>10</sup>

### Other Leaves

Educational support personnel receive the following leaves on the same terms and conditions granted professional personnel in Board policy 5:250, *Leaves of Absence*:

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A State-mandated school holiday on Good Friday is unconstitutional according to Metzl v. Leininger, 57 F.3d 618 (7th Cir. 1995). Closing school on religious holidays may be permissible for those districts able to demonstrate that remaining open would be a waste of educational resources because of widespread absenteeism. Also, districts may be able to close school on Good Friday by adopting a spring holiday rationale or ensuring that it falls within spring break. School districts should discuss their options, including the collective bargaining implications, with their board attorney.

For more information about 2024<sup>2</sup> Election Day, see the discussion in f/n 4 in sample policy 5:200, *Terms and Conditions of Employment and Dismissal*. 2020 Election Day and 2022 Election Day remain~~s~~<sup>e</sup> holidays listed in 105 ILCS 5/24-2(e), amended by P.A.s 102-15~~7~~<sup>7</sup> and 103-467, but no longer appears in this policy.

<sup>9</sup> State law does not address personal leave. It is not uncommon for boards to grant educational support personnel the same number of personal leave days as are granted to professional staff.

<sup>10</sup> Required by 105 ILCS 5/24-6.3(b) and 40 ILCS 5/7-174.5, added by P.A. 102-943. A similar leave exists for an elected trustee for the Ill. Teachers' Retirement System. See sample policy 5:250, *Leaves of Absence*.

1. Leave for Service in the Military. <sup>11</sup>
2. Leave for Service in the General Assembly. <sup>12</sup>
3. School Visitation Leave. <sup>13</sup>
4. Leaves for Victims of Domestic Violence, Sexual Violence, Gender Violence, or Other Crime of Violence. <sup>14</sup>
5. Family Bereavement Leave. <sup>15</sup>
6. [Child Extended Bereavement Leave](#). <sup>16</sup>
7. Leave to serve as an election judge. <sup>17</sup>
8. COVID-19 Paid Administrative Leave. <sup>18</sup>

LEGAL REF.: 105 ILCS 5/10-20.7b, 5/10-20.83 (~~final citation pending~~), 5/24-2, 5/24-6, and 5/24-6.3.  
 10 ILCS 5/13-2.5, Election Code.  
 330 ILCS 61/, Service Member Employment and Reemployment Rights Act.  
 820 ILCS 147, School Visitation Rights Act.  
 820 ILCS 154/, ~~Child~~Family Bereavement Leave Act.  
[820 ILCS 156/. Child Extended Bereavement Leave Act](#).  
 820 ILCS 180/, Victims' Economic Security and Safety Act.  
 School Dist. 151 v. ISBE, 154 Ill.App.3d 375 (1st Dist. 1987); Elder v. Sch. Dist. No.127 1/2, 60 Ill.App.2d 56 (1st Dist. 1965).

CROSS REF.: 5:180 (Temporary Illness or Temporary Incapacity), 5:185 (Family and Medical Leave), 5:250 (Leaves of Absence)

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<sup>11</sup> Military leave is governed by the School Code (105 ILCS 5/10-20.7b, 5/24-13, and 13.1); the Service Member Employment and Reemployment Rights Act (330 ILCS 61/, streamlining several job-related protection laws into one statute, mandating leave for *active service* and requiring the public employer to make up the difference between military pay and regular compensation); and the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. §4301 et seq.).

<sup>12</sup> Granting General Assembly leave to ESPs is optional.

<sup>13</sup> 820 ILCS 147/, ~~amended by P.A. 101-486~~. See sample policy 5:250, *Leaves of Absence*, and 5:250-AP, *School Visitation Leave*.

<sup>14</sup> Required by Victims' Economic Security and Safety Act (820 ILCS 180/, amended by P.A.s ~~101-221~~, 102-487, ~~and 102-890, and 103-314~~) and 56 Ill.Admin.Code Part 280. Important information about this leave is discussed in f/ns ~~21, 22, 23~~ and ~~24~~ of sample policy 5:250, *Leaves of Absence*.

<sup>15</sup> 820 ILCS 154/, amended by P.A. 102-1050, ~~eff. 1-1-23~~; 56 Ill.Admin.Code Part 252. Important information about this leave is discussed in f/n 5 of sample policy 5:250, *Leaves of Absence*.

<sup>16</sup> [820 ILCS 156/, added by P.A. 103-466. Delete this item and the Legal Reference to 820 ILCS 156/. Child Extended Bereavement Leave Act, if the district has fewer than 50 full-time employees. If the district has fewer than 50 full-time employees. See sample policy 5:250, Leaves of Absence, and its f/ns 6 and 7 for important information about this leave.](#)

<sup>17</sup> 10 ILCS 5/13-2.5.

<sup>18</sup> 105 ILCS 5/10-20.83 (~~final citation pending~~), added by P.A. 102-697. See sample policy 5:250, *Leaves of Absence*, and its f/ns ~~26-28~~ for important information about this leave.

## Instruction

### School Accountability <sup>1</sup>

According to the Illinois General Assembly, the primary purpose of schooling is the transmission of knowledge and culture through which students learn in areas necessary to their continuing development and entry into the world of work.<sup>2</sup> To fulfill that purpose, the Ill. State Board of Education (ISBE) prepared *State Goals for Learning and Learning Standards*.<sup>3</sup>

The School Board gives priority in the allocation of resources, including funds, time, personnel, and facilities, to fulfilling this purpose.

### Quality Assurance

The Board continuously monitors student achievement and the quality of the District's work. The Superintendent shall supervise the following quality assurance components, in accordance with State law and ISBE rules, and continuously keep the Board informed:

1. Prepare each school's annual recognition application and quality assurance appraisal, whether internal or external, to assess each school's continuous school improvement.<sup>4</sup>
2. Continuously assess the District's and each school's overall performance in terms of both academic success and equity. This includes, without limitation, a thorough analysis of ISBE's balanced accountability measure and each school's *Multiple Measure Index* and corresponding *Annual Measurable Objective* provided by ISBE.<sup>5</sup>

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<sup>1</sup> State or federal law controls this policy's content.

<sup>2</sup> 105 ILCS 5/27-1.

<sup>3</sup> 23 Ill.Admin.Code §1, Appendix D.

<sup>4</sup> 105 ILCS 5/2-3.25 ~~–~~ 2-3.25b, [amended by P.A. 103-175](#); 23 Ill.Admin.Code §§1.10(a) and 1.20.

<sup>5</sup> 105 ILCS 5/2-3.25a, [amended by P.A. 103-175](#); 5/2-3.64a-5, [amended by P.A. 101-643](#). First, the General Assembly significantly revised the system of standards for school districts and schools. Next, it delayed certain implementation dates by one school year. Then, it further revised the system of standards for school districts and schools. Annual state assessments required by 105 ILCS 5/2-3.64a-5(c), [amended by P.A. 101-643](#), are not required if [the Ill. State Board of Education \(ISBE\)](#) receives a waiver from the administration of assessments from the U.S. Dept. of Education. 105 ILCS 5/2-3.64a-5(c), [as amended by P.A. 101-643](#). ISBE must establish recognition standards for student performance and school improvement for all districts and their individual schools, and outline accountability measures in its State plan that it submits to the U.S. Dept. of Education under the Every Student Succeeds Act (ESSA) (Pub. L. 114-95). If ESSA ceases to require a state plan, then ISBE must develop a written plan in consultation with the Ill. Balanced Accountability Measure (IBAM) Committee. 105 ILCS 5/2-3.25a.

3. If applicable, develop ~~District and~~ School Improvement Plans, present them for Board approval, and supervise their implementation. <sup>6</sup>
4. Prepare a school report card, present it at a regular Board meeting, and disseminate it as provided in State law. <sup>7</sup>
5. In accordance with 105 ILCS 5/2-3.153, annually administer a climate survey on the instructional environment within the school to, at minimum, students in grades 4 through 12 and teachers. <sup>8</sup>

LEGAL REF.: 105 ILCS 5/2-3.25, 5/2-3.25a, 5/2-3.25b, 5/2-3.25c, 5/2-3.25d-5, 5/2-3.25e-5, 5/2-3.25f, 5/2-3.25f-5, 5/2-3.63, 5/2-3.64a-5, 5/2-3.153, 5/10-17a, 5/10-21.3a, and 5/27-1.

23 Ill.Admin.Code Part 1, Subpart A: Recognition Requirements.

CROSS REF.: 6:170 (Title I Programs), 6:340 (Student Testing and Assessment Program), 7:10 (Equal Educational Opportunities)

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<sup>6</sup> The requirements around ~~district and school~~ improvement plans are unknown until ISBE revises its rules at 23 Ill.Admin.Code Part 1, Subpart A: Recognition Requirements, following P.A.s 99-193 and 100-1046. P.A. 99-193 deleted the requirements concerning improvement plans as well as the sanctions for failing to make adequate yearly progress contained in 105 ILCS 5/2-3.25d, but then P.A. 100-1046 repealed 105 ILCS 5/2-3.25d in its entirety. 105 ILCS 5/2-3.25f(a), amended by P.A. 103-175, continues to state that ISBE “shall provide technical assistance to schools in school improvement status to assist with the development and implementation of ~~School and District~~ Improvement Plans” and that schools or districts “that fail to make reasonable efforts to implement an approved Improvement Plan may suffer loss of State funds by school district, attendance center, or program as the State Board of Education deems appropriate.” ISBE is required to provide districts with technical assistance and support by the Elementary and Secondary Education Act. 20 U.S.C. §6303.

<sup>7</sup> 105 ILCS 5/10-17a, amended by P.A.s ~~101-68,~~ 102-294 (data on the number of incidents of violence that occurred on school grounds or during school-related activities and that resulted in an out-of-school suspension, expulsion, or removal to an alternative setting), 102-594 (the number of teachers who are National Board Certified Teachers, disaggregated by race and ethnicity), ~~and P.A.~~ 102-539 (school report card deliveries delayed until 12-31 in years when the Governor declares a public health emergency), 103-116 (percentage of students with disabilities who have fulfilled minimum state graduation requirements and been issued a regular high school diploma), 103-263 (gifted and advanced placement reporting), 103-413, eff. 1-1-24 (beginning with the October 2024 report card, the total number of school counselors, social workers, nurses, and psychologists by school, district, and state, and the average number of students served by each in each setting), and 103-503, eff. 1-1-24 (expanded high school snapshot report).

Districts must present the report card at a regular board meeting, post it on the district’s website, make it available to newspapers of general circulation in the district, notify parents/guardians of its availability on the district’s website, provide it to parents/guardians on request, submit it to the regional superintendent or appropriate Intermediate Service Center, and otherwise disseminate it as required by State law. See 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*.

<sup>8</sup> Required by 105 ILCS 5/2-3.153 and 23 Ill.Admin.Code §1.97. The State Superintendent must publicly report on the survey indicators of learning conditions resulting from the administration of the instrument at the individual school, district, and State levels. A district may use an alternate learning instrument approved by the State Superintendent at its own cost. These survey instruments are authorized by July 1 each year and posted at: [www.isbe.net/Pages/5Essentials-Survey.aspx](http://www.isbe.net/Pages/5Essentials-Survey.aspx). 23 Ill.Admin.Code §1.97(g)(1)-(2). To use an alternate survey instrument, the district must submit a form developed for this purpose and posted at [www.isbe.net/Pages/5Essentials-Survey.aspx](http://www.isbe.net/Pages/5Essentials-Survey.aspx) to the State Superintendent on or before a date established by the State Superintendent each year. *Id.*

Insert the following sentence for districts that administer an alternate survey of learning conditions at their own cost: “The District has elected to use an alternate climate survey of learning conditions instrument.”

## Instruction

### School Year Calendar and Day <sup>1</sup>

#### School Calendar

The School Board, upon the Superintendent's recommendation and subject to State regulations, annually establishes the dates for opening and closing classes, teacher institutes and in-services, the length and dates of vacations, and the days designated as legal school holidays.<sup>2</sup> The school calendar shall have a minimum of 185 days to ensure 176 days of actual student attendance.<sup>3</sup>

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<sup>1</sup> State or federal law controls this policy's content. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

<sup>2</sup> State-mandated school holidays are found in 105 ILCS 5/24-2, amended by P.A.s ~~101-642 and 102-15~~ (2022 General Election Day), 102-14 and 102-334 (both establishing Juneteenth National Freedom Day), and 103-467 (2024 General Election Day). See [sample](#) policy 5:330, *Sick Days, Vacation, Holidays, and Leaves*, for a holiday listing. The law allows a school board to hold school or schedule teachers' institutes, parent-teacher conferences, or staff development on five identified school holidays if: (1) the school board first holds a public hearing on the proposal; and (2) the person or persons honored by the holiday are recognized through instructional activities conducted on the school holiday or on the first school day preceding or following the school holiday. Districts must redo the public hearing process in the event they change plans for use of holidays. See Ill. State Board of Education (ISBE) guidance at: [www.isbe.net/Documents/district-holiday-plans13.pdf](http://www.isbe.net/Documents/district-holiday-plans13.pdf). This is an item on which collective bargaining may be required, and a board that wishes to implement this law should consult its attorney.

A State mandated school holiday on *Good Friday* is unconstitutional according to *Metzl v. Leininger*, 57 F.3d 618 (7th Cir. 1995). Closing school on religious holidays may still be permissible for those districts able to demonstrate, e.g., through surveys, that remaining open would be a waste of educational resources due to widespread absenteeism. Also, districts may be able to close school on Good Friday by adopting a *spring holiday* rationale or ensuring that it falls within spring break. School districts should discuss all of these options, and collective bargaining implications with their board attorneys.

If the county board or board of election commissioners chooses a school to be a polling place, the school district must make the school available. 10 ILCS 5/11-4.1. For the Election Day, the law encourages a school district to either: (1) close the school; or (2) hold a teachers' institute on that day with the students not in attendance. *Id.* and 105 ILCS 5/24-2, amended by P.A.s ~~101-642, 102-15, 102-14, 102-334, 102-411, and 103-467, and 10~~ ILCS 5/1-24~~2A-1~~<sup>1e</sup>, added by P.A. 103-467~~2-15~~ and repealing on 1-1-25~~3~~, establishes 2024 General Election Day as a State holiday required all government offices, with the exception of election authorities, to be closed, unless authorized to be used as a location for election day services or as a polling place for 2020 General Election Day; and it requires schools to be available to an election authority as a polling place for 2024~~0~~ General Election Day and on 11-8-22 for 2022 General Election Day. *Id.*

<sup>3</sup> The school calendar must have a minimum 185 days to ensure 176 days of actual pupil attendance that may include remote learning days, blended remote learning days, and up to five remote and blended remote learning planning days pursuant to 105 ILCS 5/10-30, added by P.A. 101-643. 105 ILCS 5/10-19, amended by P.A.s 101-12 and 101-643, and 5/24-1; 23 Ill.Admin.Code §1.420. See [sample](#) policy 4:180, *Pandemic Preparedness; Management; and Recovery*, for information about remote and/or blended remote learning day plans. Schools must be closed during county institute days. 105 ILCS 5/24-3. The school calendar may be a mandatory subject of collective bargaining. The calendar for the school term and any changes must be submitted to and approved by the regional superintendent before the calendar or changes may take effect. 105 ILCS 5/10-19.

## Commemorative Holidays

The teachers and students shall devote a portion of the school day on each commemorative holiday designated in the School Code to study and honor the commemorated person or occasion.<sup>4</sup> The Board may, from time to time, designate a regular school day as a commemorative holiday.

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E-learning days allow a school district to provide instruction to students electronically while they are not physically present due to inclement weather and other unexpected events. 105 ILCS 5/10-20.56, ~~added by P.A. 101-12 and~~ amended by P.A.s ~~101-643~~, 102-584 (e-learning days allowed when a school is selected as a polling place under the Election Code), and 102-697. Before a school district can implement an e-learning program and use e-learning days it must, along with other requirements (1) hold a public hearing on the initial proposal for the e-learning program, (2) obtain verification from the Regional Office of Education (ROE) or Intermediate Service Center (ISC) for the school district that the initial proposal meets the requirements specified in the law, and (3) by resolution adopt a research-based program for district-wide e-learning days. Before implementing an e-learning program, boards must collectively bargain the impact of the program on the wages, hours, terms, and conditions of employment with employee representative(s). More information about e-learning is available at: [www.isbe.net/Pages/Electronic-Learning.aspx](http://www.isbe.net/Pages/Electronic-Learning.aspx). The law requires that districts pay employees and contractors who provide educational support services their regular rate of pay if the employee/contractor otherwise would have worked on an e-learning day. *Id.* at (d-10) and (d-15). Retroactive payments for e-learning days used during 2021-2022 school year are also required if employees or contractors were unpaid or employees were required to use earned paid time off. *Id.* at (d-20). However, payment is not required if the day(s) are (or were) rescheduled. Consult the board attorney regarding whether the board must pay contractors for consumables, such as fuel and school meals; the legislative history supports that consumables were not intended to be part of the payment. See 102nd General Assembly House Transcript 3-1-22, p. 77, available at: [www.ilga.gov/house/transcripts/htrans102/10200077.pdf](http://www.ilga.gov/house/transcripts/htrans102/10200077.pdf).

<sup>4</sup> 105 ILCS 5/24-2(c), amended by P.A.s 102-411 ~~and 103-15~~, lists the following as commemorative holidays: Jan. 17 (Muhammad Ali's birthday), Jan. 28 (Christa McAuliffe Day commemorating space exploration); Feb. 15 (Susan B. Anthony's birthday); Mar. 29 (Vietnam War Veterans' Day); Sept. 11 (Sept. 11th Day of Remembrance); [Sept. 17 \(Constitution Day\)](#); the school day immediately preceding Veterans' Day (Korean War Veterans' Day); Oct. 1 (Recycling Day); Oct. 7 (Iraq and Afghanistan Veterans Remembrance Day); and Dec. 7 (Pearl Harbor Veterans' Day).

Other commemorative holidays include, but are not limited to: Arbor and Bird Day on the last Friday in April (105 ILCS 5/27-18); Leif Erickson Day on October 9 if a school day and otherwise on a school day nearest the date (105 ILCS 5/27-19); American Indian Day on the 4th Friday of September (105 ILCS 5/27-20); Ill. Law Week during the first full school week in May (105 ILCS 5/27-20.1); Just Say No Day on a school day in May designated by official proclamation of the Governor (105 ILCS 5/20.2); Ronald Reagan Day on Feb. 6 (5 ILCS 490/2); Barack Obama Day on August 4 (5 ILCS 490/3); Indigenous Peoples Day on the last Monday in September (5 ILCS 490/7); Lincoln's Birthday February 12 (5 ILCS 490/60); Juneteenth National Freedom Day on June 19 each year (5 ILCS 490/63, amended by P.A.s 102-14, ~~eff. 1-1-22~~ (second to pass both houses and controlling (5 ILCS 70/6)) and 102-334 (first to pass both houses)) – potential conflicts related to celebrating Juneteenth when it falls on a Saturday or Sunday exist, e.g., P.A. 102-14 states “when June nineteenth falls on a Saturday or Sunday, neither the preceding Friday nor the following Monday shall be held or considered as a *paid* holiday” but contrast P.A. 102-334, stating “when June nineteenth falls on a Sunday, the following Monday shall be held and considered the holiday” – notice the word *paid* is missing; consult the board attorney about whether Juneteenth should be celebrated as an *unpaid holiday* on either the preceding Friday or the following Monday when it falls on a Saturday or Sunday, respectively, or not at all when it falls on a Saturday); Martin Luther King, Jr. Birthday the third Monday in January (5 ILCS 490/65); Prairie Week the third full week in September (5 ILCS 490/75); Retired Teachers' Week the fourth week in May (5 ILCS 490/80); Veterans Day November 11 (5 ILCS 490/90); Preventing Lost Potential Day September 19 (5 ILCS 490/141); Day of Remembrance of the Victims of Slavery and the Transatlantic Slave Trade on March 25 (5 ILCS 490/155); the first full week of January is Emancipation Proclamation Week (5 ILCS 490/160); Mother Mary Ann Bickerdyke Day on the second Wednesday in May (5 ILCS 490/175); April is Arab American Heritage Month (5 ILCS 490/6); and the first full week of April each year is Autism Acceptance Week (5 ILCS 490/137, added by P.A. 102-588).



## School Day

The Board establishes the length of the school day with the recommendation of the Superintendent and subject to State law requirements.<sup>5</sup> The Superintendent or designee shall ensure that observances required by State law are followed during each day of school attendance.<sup>6</sup>

LEGAL REF.: 105 ILCS 5/10-19, 5/10-19.05, 5/10-20.56, 5/10-20.46, 5/10-30, 5/18-12, 5/18-12.5, 5/24-2, 5/27-3, 5/27-18, 5/27-19, 5/27-20, 5/27-20.1, and 5/27-20.2.  
10 ILCS 5/11-4.1, Election Code.  
5 ILCS 490/, State Commemorative Dates Act.  
23 Ill.Admin.Code §1.420(f).  
Metzl v. Leininger, 850 F.Supp. 740 (N.D. Ill. 1994), *aff'd* by 57 F.3d 618 (7th Cir. 1995).

CROSS REF.: 2:20 (Powers and Duties of the School Board; Indemnification), 4:180 (Pandemic Preparedness; Management; and Recovery), 5:200 (Terms and Conditions of Employment and Dismissal), 5:330 (Sick Days, Vacation, Holidays, and Leaves), 6:60 (Curriculum Content), 6:70 (Teaching About Religions), 7:90 (Release During School Hours)

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<sup>5</sup> A school day is required to consist of a minimum five clock-hours under the direct supervision of a teacher or non-teaching personnel or volunteer personnel that provides non-teaching or supervisory duties as specified in 105 ILCS 5/10-22.34(a), in order to qualify as a full day of attendance, unless (1) the Governor issues a disaster declaration due to a public health emergency pursuant 20 ILCS 3305/7, and (2) the State Superintendent of Education establishes minimum clock-hour requirements to align with the circumstances of the Governor's disaster declaration. 105 ILCS 5/10-19.05, ~~added by P.A. 101-12 and amended by P.A. 103-560, eff. 1-1-24101-643. See [www.isbe.net/Documents/SB28Instructional\\_Day.pdf](http://www.isbe.net/Documents/SB28Instructional_Day.pdf) for ISBE's notice regarding this law.~~ See 105 ILCS 5/10-19.05, ~~added by P.A. 101-12 and amended by P.A. 103-560, eff. 1-1-24101-643~~, for additional exceptions to the attendance calculation.

Contrast 105 ILCS 5/18-12. It allows a partial day of attendance to be counted as a full day due to an adverse weather condition, condition beyond the control of the school district that poses a health and safety threat, or use of school facilities by local or county authorities for holding a memorial or funeral service in remembrance of a community member (up to two school days per school year) provided one of following conditions is met: (1) the school district has provided at least one hour of instruction prior to the closure of the school district; (2) a school building has provided at least one hour of instruction prior to the closure of the school building; or (3) the normal start time of the school district is delayed. The law also outlines the process to claim attendance prior to providing any instruction when a school district must close a building or buildings, but not the entire district, after consultation with a local emergency response agency or due to a condition beyond the control of the district. Additionally, 105 ILCS 5/18-12.5 outlines the process for claiming attendance when a school district must close a building or buildings, but not the entire district, specifically because of a public health emergency. Attendance for such days may only be claimed if the school building(s) was scheduled to be in operation on those days.

Alternative education programs may provide fewer than five hours under certain circumstances. 105 ILCS 5/13B-50.

<sup>6</sup> 105 ILCS 5/27-3 requires the Pledge of Allegiance to be recited every day in elementary and secondary schools. Note that the Illinois statute does not require every student to recite the Pledge – that kind of mandatory participation would violate the U.S. Constitution. Schools may not coerce a student into saying the Pledge, nor may they punish students for refusing to participate in any aspect of the flag ritual, including standing, saluting the flag, and reciting the Pledge. West Virginia State Bd. of Educ. v. Barnette, 319 U.S. 624 (1943); Sherman v. Cmty. Consol. Sch. Dist. 21 of Wheeling Twp., 980 F.2d 437 (7th Cir. 1992). Consider using permissive rather than mandatory language to introduce the recitation of the Pledge, such as, “You may now stand to recite the Pledge.” Schools may, of course, require that non-participants maintain order and decorum appropriate to the school environment.

The Silent Reflection and Student Prayer Act mandates a *brief period of silence* for all Illinois public school students at the opening of each school day. 105 ILCS 20/1. A student filed a federal lawsuit challenging the constitutionality of this law under the First Amendment, but the law was ultimately upheld by the Appeals Court. Sherman v. Koch, 623 F.3d 501 (7th Cir. 2010), *cert denied* by 565 U.S. 815 (2011). 105 ILCS 5/10-20.46 requires a moment of silence to recognize veterans during any type of event held at a district school on Nov. 11.

## Instruction

### Organization of Instruction <sup>1</sup>

The School District has instructional levels for grades \_\_\_\_\_ through \_\_\_\_\_. The Superintendent shall annually present to the School Board a plan for organizing instructional levels and assigning them to school facilities in order to:

1. Support the District’s educational program,
2. Maximize facility usage without undue overcrowding, and
3. Provide substantially comparable instructional programs across the District.

Students, for instructional purposes, may be placed in groups within a school that do not necessarily follow grade level designations. For purposes of attendance reporting and other records, however, each student is assigned a grade-level placement.

### Kindergarten <sup>2</sup>

The District maintains a full-day kindergarten with an instructional program that fulfills the District’s curriculum goals and objectives and the requirements of the State law. The District also offers a half-day kindergarten for those parents/guardians who request a half-day program.

*The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.*

<sup>1</sup> The contents of this policy, except the kindergarten section, are discretionary with each board. The first section serves to inform interested people that instructional levels are organized and assigned to school facilities according to a plan, developed by the superintendent, that meets standards adopted by the board. If a board does not want to include specific standards for the plan, it may substitute this sentence for the second sentence:

The grouping and housing of instructional levels in school facilities shall be according to plans developed by the Superintendent and approved by the Board.

Optional additional sentences for unit districts; insert after the first sentence.

The elementary schools enroll students in kindergarten through grade \_\_\_\_\_. The junior high school offers grades \_\_\_\_\_ through \_\_\_\_\_. The high school offers grades \_\_\_\_\_ through 12.

<sup>2</sup> This section is for only those districts having a kindergarten. Until the 2027-28 school year, a board may establish a full-day or half-day kindergarten program. 105 ILCS 5/10-22.18. If, but if a full-day program is established, then the district must also establish a half-day program. Id., 105 ILCS 5/10-22.18, amended by P.A. 103-410; 23 Ill.Admin.Code §1.420(h)(1). The district must offer a distinctive curriculum for full- and half-day kindergartens when 20 or more students’ parents/guardians request a half-day program. 23 Ill.Admin.Code §1.420(h)(2). Beginning with the 2027-28 school year, a board must establish a full-day kindergarten program and may establish a half-day kindergarten program. 105 ILCS 5/10-22.18, amended by P.A. 103-410. Both full-day and half-day kindergarten programs should be developmentally appropriate and provide opportunities for play-based learning. Id. Elementary or unit districts that do not offer full-day kindergarten as of 10-1-22, may apply for a two-year extension of the 2027-28 school year full-day kindergarten implementation deadline if the criteria set forth in 105 ILCS 5/10-22.18(b)(1)-(3) are met. Id. at (b).

A board should consider adding a description of pre-kindergarten programs whether they are for all students or only those who qualify due to special needs.

105 ILCS 5/10-20.37, ~~5/10-20.19a~~, and 5/10-22.18, amended by P.A. 103-410, authorize a board to establish a program as described in the following optional provision:

To the extent State or federal funds are available and in accordance with State law, the Superintendent or designee shall establish, maintain, and operate a summer kindergarten program that: (1) begins two months before the beginning of the regular school year, and/or (2) continues for two months after the regular school year for grade one readiness for those students making unsatisfactory progress during the regular kindergarten session. The District shall provide transportation.

LEGAL REF.: 105 ILCS ~~5/10-20.19a~~, 5/10-20.37, and 5/10-22.18.  
23 Ill.Admin.Code §1.420.

CROSS REF.: 6:40 (Curriculum Development), 6:170 (Title I Programs), 7:30 (Student Assignment and Intra-District Transfer), 7:50 (School Admissions and Student Transfers To and From Non-District Schools), 7:100 (Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students)

## Instruction

### School Wellness <sup>1</sup>

Student wellness, including good nutrition and physical activity, shall be promoted in the District’s educational program, school-based activities, and meal programs.<sup>2</sup> This policy shall be interpreted consistently with Section 204 of the Child Nutrition and WIC Reauthorization Act of 2004 and the Healthy Hunger-Free Kids Act of 2010 (HHFKA).<sup>3</sup>

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<sup>1</sup> State or federal law requires this subject matter to be covered in policy and controls its content. The federal Child Nutrition and WIC Reauthorization Act of 2004 (Child Nutrition Act) ([Pub. L. 108-265](#)) requires school districts participating in a program authorized by the [Richard B. Russell National School Lunch Act \(NSLA\)](#) (42 U.S.C. §1751 *et seq.*) or the Child Nutrition Act to have a school wellness policy. Pub. L. 108-265, Sec. 204. State law required the Ill. State Board of Education (ISBE) to “establish a State goal that all school districts have a wellness policy.” 105 ILCS 5/2-3.139(a). ISBE complied in October 2007 by “instruct[ing] all public school districts to establish a School Wellness Policy.” The federal and State laws list mandatory topics for the policy. The second sentence of this policy should be deleted if the district does not participate in the NSLA or the Child Nutrition Act.

See ISBE’s numerous resources at: [www.isbe.net/Pages/Nutrition-and-Wellness.aspx](http://www.isbe.net/Pages/Nutrition-and-Wellness.aspx) and [www.isbe.net/Pages/Local-School-Nutrition-Wellness-Policy.aspx](http://www.isbe.net/Pages/Local-School-Nutrition-Wellness-Policy.aspx). Action for Healthy Kids is a national organization dedicated to overcoming the “epidemic of overweight, undernourished and sedentary youth by focusing on changes in schools;” see its resources at: [www.actionforhealthykids.org/www.actionforhealthykids.org/index.php](http://www.actionforhealthykids.org/www.actionforhealthykids.org/index.php).

This sample policy seeks to be both legally compliant and consistent with good governance principles. Both federal and State laws allow each school district to determine how the required topics are addressed. Good governance principles suggest that the board should establish goals with community and stakeholder input. The administration should determine how to achieve the goals. The board should monitor this policy by requesting and reviewing periodic implementation data.

The Ill. Dept. of Agriculture and ISBE are directed to create the Farm Fresh Schools Program. 105 ILCS 124/, Farm Fresh Schools Program Act; 30 ILCS 105/5.728, Farm Fresh Schools Program Fund. They are also directed to administer a grant program to further the Program’s intent of “reduc[ing] obesity and improve[ing] nutrition and public health, as well as strengthen[ing] local agricultural economies by increasing access to and promoting the consumption of locally grown fruits and vegetables in schools and increasing physical activities and programs that promote pupil wellness.” 105 ILCS 124/10.

<sup>2</sup> 7 C.F.R. §210.31(a) and (c)(1). The law ~~does not require~~ [that local school wellness policies include specific goals for nutrition promotion and education, physical activity, and school-based activities to be listed in policy—only that boards implement them](#). Federal law requires consideration of evidence-based strategies and techniques when implementing school-based activities. [See ISBE’s Local Wellness Policy Content Checklist at www.isbe.net/Documents/Local-Wellness-Policy-Content-Checklist.pdf](#). ~~A board that chooses to list these activities must update them as they change by readopting the policy.~~

~~For boards that have developed and wish to list their chosen evidence-based school-based activities, add the following sentence to the paragraph as the second sentence: “The District’s school-based activities include: [list the chosen evidence-based school-based activities].”~~

For boards that ~~have not yet developed and implemented their evidence-based school-based activities and~~ need technical assistance, see ~~the websites for:~~

1. The U.S. Dept. of Agriculture (USDA) at: [www.fns.usda.gov/tn/local-school-wellness-policy](http://www.fns.usda.gov/tn/local-school-wellness-policy); and
2. The Alliance for a Healthier Generation (AHG) at: [www.healthiergeneration.org/](http://www.healthiergeneration.org/).

<sup>3</sup> [Pub. L. 111-296](#), Healthy Hunger-Free Kids Act of 2010 (HHFKA); 42 U.S.C. §1758b ([Pub.L. 111-296](#) [local school wellness policy](#)); 7 C.F.R. §§210.10 ([meal requirements for lunches and requirements for after-school snacks](#)) and 210.31(a) ([local school wellness policy](#)).

The Superintendent will ensure: <sup>4</sup>

1. Each school building complies with this policy;
2. The policy is available to the community on an annual basis through copies of or online access to the Board Policy Manual<sup>5</sup>; and
3. The community is informed about the progress of this policy's implementation.

#### Goals for Nutrition Education and Nutrition Promotion <sup>6</sup>

The goals for addressing nutrition education and nutrition promotion include the following:

- Schools will support and promote sound nutrition for students.
- Schools will foster the positive relationship between sound nutrition, physical activity, and the capacity of students to develop and learn.

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<sup>4</sup> *Id.*; 7 C.F.R. §210.31(c)(4) (identification of school official responsible for implementation of the policy), §210.31 (d)(2) (informing the public about the policy and making it available on an annual basis), §210.31 (d)(3) (informing the public of the progress toward meeting the goals of the policy by making triennial assessments available), and §210.31(e) (policy implementation, assessments, and updates). See also f/n 20, below.

This sample policy identifies the superintendent as the school official responsible to ensure compliance and oversee the policy. When the rules require specific identification of a school official, the policy does not include the delegation language *or designee*. **[School boards] must identify the [school official(s)] responsible for oversight of [its wellness policy] to ensure compliance. [Boards] have discretion and are the most qualified to identify the best candidate for [their wellness] policy leadership as size, resources, and needs vary greatly among [school districts]**. See Federal Register Vol. 81, No. 146 at 50155 at: [www.gpo.gov/fdsys/pkg/FR-2016-07-29/pdf/2016-17230.pdf](http://www.gpo.gov/fdsys/pkg/FR-2016-07-29/pdf/2016-17230.pdf).

For boards that wish to identify a school official other than the superintendent, delete ~~Superintendent~~ and replace it with the responsible school official's title.

The intent of the rule is that schools "notify households on an annual basis of the availability of the local school wellness policy information and provide information that would enable *interested households* to obtain additional details." Fed. Reg. Vol. 81, No. 146 at 50160. However, the rule states, "[i]nform the *public* about the content and implementation of the local school wellness policy, and make the policy and any updates to the policy available to the public on an annual basis."

To achieve the intent of this requirement, the regulations suggest several methods for districts, which include a common method many districts likely already use: post the policy on the websites for the *public*, and use the student handbook to distribute important information to *interested households*.

<sup>5</sup> For boards that distribute their wellness policies via student handbooks and want to list that in the text of their policies, insert "and distributed to students and their parents/guardians through student handbooks". For sample handbook language, see the Illinois Principals Association *Online Model Student Handbook (MSH)* at: [www.ilprincipals.org/msh/](http://www.ilprincipals.org/msh/).

<sup>6</sup> Goals for nutrition education and nutrition promotion are required topics, but the local board may determine what goals are appropriate. Pub. L. 108-265, Sec. 204(a)(1) and Pub. L. 111-296; [42 USC §1758b\(b\)\(1\)](#); 105 ILCS 5/2-3.139(a)(2); and 7 C.F.R. §210.31(c)(1). Replace this policy's text with a board's own locally-developed nutritional education and promotion goals.

*Nutrition promotion*, required by Pub. L. 111-296, is not well-described or defined. The Food Nutrition Service (FNS) describes *nutrition promotion* more clearly in its technical assistance materials and the proposed 7 C.F.R. Part 210 rules (Fed. Reg. Vol. 79, No. 38 at 10695), dated Feb. 26, 2014, which state, "... evidence based techniques and scientifically-based nutrition messages targeted to a specific audience to inspire and motivate them to take action and use these techniques and messages to create environments and food service venues (classroom, cafeteria, a la carte, vending machines, school stores, snack bars, fundraisers, home, etc.) that encourage healthy nutrition choices, as well as enhance and encourage participation in school meal programs."

More specific materials about nutrition education and promotion, including songs, games, posters, videos, event-planning booklets, wellness communication toolkits, school garden activities, and a graphics library, have also been developed by the FNS' Team Nutrition at: [www.fns.usda.gov/tn/resource-library](http://www.fns.usda.gov/tn/resource-library).

Technical assistance for:

Nutritional promotion at: [www.fns.usda.gov/tn/local-school-wellness-policy](http://www.fns.usda.gov/tn/local-school-wellness-policy).

Goals development for and implementation of nutrition education and promotion are available from AHG at: [www.healthiergeneration.org/](http://www.healthiergeneration.org/).

- Nutrition education will be part of the District’s comprehensive health education curriculum. See Board policy 6:60, *Curriculum Content*.<sup>7</sup>

### Goals for Physical Activity<sup>8</sup>

The goals for addressing physical activity include the following:

- Schools will support and promote an active lifestyle for students.
- Physical education will be taught in all grades and shall include a developmentally planned and sequential curriculum that fosters the development of movement skills, enhances health-related fitness, increases students’ knowledge, offers direct opportunities to learn how to work cooperatively in a group setting, and encourages healthy habits and attitudes for a healthy lifestyle. See policies 6:60, *Curriculum Content* and 7:260, *Exemption from Physical Education*.<sup>9</sup>
- During the school day, all students will be required to engage in a daily physical education course, unless otherwise exempted. See policies 6:60, *Curriculum Content* and 7:260, *Exemption from Physical Education*.<sup>10</sup>
- The curriculum will be consistent with and incorporate relevant *Illinois Learning Standards for Physical Development and Health* as established by the Ill. State Board of Education (ISBE).<sup>11</sup>

### Goals for Other School-Based Activities<sup>12</sup>

The goals for school-based activities include the following:

- Schools will support and promote a healthy eating environment for students.
- Schools will promote and participate in wellness activities.

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<sup>7</sup> 105 ILCS 110/3 and 23 Ill.Admin.Code §1.420(n).

<sup>8</sup> This is a required topic, but the local board may determine what goals are appropriate. 105 ILCS 5/2-3.139(a)(2); [42 USC §1758b\(b\)\(1\)](#); and 7 C.F.R. §210.31(a) and (c)(1).

<sup>9</sup> 105 ILCS 5/27-5 and 27-6, amended by P.A. 102-405; 23 Ill.Admin.Code §1.425. See also f/n 31 in [sample](#) policy 6:60, *Curriculum Content*. For standards-based lesson plans and curricula for pre-kindergarten through grade 8, classroom-based lesson plans, recipes, guidance to improve the quality of school meals, and other materials for nutrition education and promotion, including songs, games, posters, videos, event-planning booklets, wellness communication toolkits, school garden activities, and a graphics library, see the resources developed by the FNS’ Team Nutrition at: [www.fns.usda.gov/tn/resource-library](http://www.fns.usda.gov/tn/resource-library).

<sup>10</sup> *Id.* This policy’s sample text is based upon federal and State *goals* while sample policy 6:60, *Curriculum Content*’s text is based only upon State curriculum requirements that require a minimum of three days of physical education per five-day week. Ensure the text in this policy’s goal aligns with the district’s practice stated in policy 6:60 for meeting the minimum requirements of 23 Ill.Admin.Code §1.425(b).

<sup>11</sup> Schools must “set student learning objectives which meet or exceed goals established by the State.” 105 ILCS 5/2-3.63. The *Learning Standards* can be found on ISBE’s website at: [www.isbe.net/Pages/Standards-Courses.aspx](http://www.isbe.net/Pages/Standards-Courses.aspx). See State goals 19-24 for physical education and health at: [www.isbe.net/Documents/Goals-19-24-and-Perf-Descrip.pdf](http://www.isbe.net/Documents/Goals-19-24-and-Perf-Descrip.pdf).

105 ILCS 5/27-6.5 describes physical fitness assessments required, beginning with the 2016-17 school year and every school year thereafter, for grades 3-12 in an effort to meet State Goal 20 of the *Illinois Learning Standards for Physical Development and Health*. See also 23 Ill.Admin.Code §1.425-(f) and (h); ISBE’s *IL Fitness Assessments and Data Reporting Requirements Questions and Answers (Rev. Sept. 2021)* at: [www.isbe.net/Documents/Physical\\_Fitness\\_Assessment\\_FAQ.pdf](http://www.isbe.net/Documents/Physical_Fitness_Assessment_FAQ.pdf).

<sup>12</sup> This is a required topic, but the local board may determine what goals are appropriate. 42 USC §1758b(b)(1); 7 C.F.R. §210.31(c)(1). The third sample goal comes from ISBE’s *Local Wellness Policy Template for Schools*, available at: [www.isbe.net/Pages/Local-School-Nutrition-Wellness-Policy.aspx](http://www.isbe.net/Pages/Local-School-Nutrition-Wellness-Policy.aspx).

- [Schools will offer other school-based activities to support student health and wellness, including coordinated events and clubs.](#)

### Nutrition Guidelines for Foods Available During the School Day; Marketing Prohibited <sup>13</sup>

Students will be offered and schools will promote nutritious food and beverage choices during the school day that are consistent with Board policy 4:120, *Food Services* (requiring compliance with the nutrition standards specified in the U.S. Dept. of Agriculture’s (USDA) *Smart Snacks* rules). <sup>14</sup>

In addition, in order to promote student health and reduce childhood obesity,<sup>15</sup> the Superintendent or designee shall:

1. Restrict the sale of *competitive foods*, as defined by the USDA, in the food service areas during meal periods;
2. Comply with all ISBE rules; and
3. Prohibit marketing during the school day of foods and beverages that do not meet the standards listed in Board policy 4:120, *Food Services*, i.e., in-school marketing of food and beverage items must meet *competitive foods* standards. <sup>16</sup>

*Competitive foods* standards do not apply to foods and beverages available, but not sold in school during the school day; e.g., brown bag lunches, foods for classroom parties, school celebrations, and reward incentives. <sup>17</sup>

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<sup>13</sup> The policy must include the nutrition guidelines selected by the board for “all foods available during the school day with the objective of promoting student health and reducing childhood obesity.” Pub. L. 108-265, Sec. 204(a)(2); 105 ILCS 5/2-3.139(a)(1); and 7 C.F.R. §210.10 and 210.31(a), (c)(2), and (c)(3)(i)-(iv). 42 U.S.C. 1758b(b)(2)(A) requires that each local school wellness policy include nutrition guidelines for all foods and beverages available for sale on the school campus during the school day to ensure they are consistent with the statutory and regulatory provisions governing school meals (7 C.F.R. §§210.10, 220.8 and 220.10) and competitive foods (7 C.F.R. §210.11) as applicable.

Prior to July 2016 when 7 C.F.R. § 210.10 and 7 C.F.R § 210.31(c) (respectively) became effective, the current *Dietary Guidelines for Americans* published jointly by the U.S. Depts. of Health and Human Services and Agriculture (USDA) were used as nutrition guidelines.

<sup>14</sup> 7 C.F.R. §§210.10 (meal requirements for lunches and [requirements for after-school snacks](#)); 210.11(c) (general nutrition standards for competitive food, i.e., *Smart Snacks*); and 210.31(a) and (c) (encompassing all other nutrition requirements, including foods not sold to students during the school day (classroom parties)).

<sup>15</sup> 7 C.F.R. §210.31(c)(3)(iv).

<sup>16</sup> 7 C.F.R. §§210.11(a)(2) and 210.31(c)(3)(iii); 23 Ill. Admin. Code §305.5. For a definition of *competitive foods*, see 4:120-AP, *Food Services; Competitive Foods; Exemptions*.

<sup>17</sup> 7 C.F.R. §210.31(c)(2). This sample policy does not apply competitive food standards to foods not sold in schools; i.e., foods that students bring into the school from home, etc.

The final [federal] rule does not require that local school wellness policy standards for *foods provided in schools during the school day but not available for sale* conform to the school meal requirements or the competitive foods standards. In fact, the preamble to the final rule reiterates this saying, “[a]gain, it should be noted that with regard to foods provided, but not sold, in schools, local jurisdictions have the discretion to adopt standards that conform to [the competitive food standards] or to adopt more or less stringent standards.” Similarly, the preamble to the final rule clearly states the rule does not require school boards to address standards for food brought from home for individual consumption. See Federal Register Vol. 81, No. 146 at 50158 at: [www.gpo.gov/fdsys/pkg/FR-2016-07-29/pdf/2016-17230.pdf](http://www.gpo.gov/fdsys/pkg/FR-2016-07-29/pdf/2016-17230.pdf). Emphasis added.

This sample policy adopts less stringent standards for foods not sold in schools. For boards that wish to adopt standards that conform to the competitive food standards or apply even more stringent standards to foods available, but not sold during the school day, delete the last sentence of this subhead: ~~Competitive foods standards do not apply to foods and beverages available, but not sold in school during the school day; e.g., foods for classroom parties, school celebrations, and reward incentives.~~ and choose one of the following sentences to replace it:

**Option 1:** The District applies competitive foods standards listed in Board policy 4:120, *Food Services*, to foods available, but not sold, in schools.

### Exempted Fundraising Day (EFD) Requests <sup>18</sup>

All food and beverages sold to students on the school campuses of participating schools during the school day must comply with the “general nutrition standards for competitive foods” specified in federal law.

ISBE rules prohibit EFDs for grades 8 and below in participating schools.

The Superintendent or designee in a participating school may grant an EFD for grades 9 through 12 in participating schools. To request an EFD and learn more about the District’s related procedure(s), contact the Superintendent or designee. The District’s procedures are subject to change. The number of EFDs for grades 9 through 12 in participating schools is set by ISBE rule.

### Guidelines for Reimbursable School Meals <sup>19</sup>

Reimbursable school meals served shall meet, at a minimum, the nutrition requirements and regulations for the National School Lunch Program and/or School Breakfast Program. <sup>20</sup>

### Unused Food Sharing Plan <sup>21</sup>

In collaboration with the District’s local health department, the Superintendent or designee will:

1. Develop and support a food sharing plan (Plan) for unused food that is focused on needy students. <sup>22</sup>
2. Implement the Plan throughout the District.

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**Option 2:** The District applies more stringent standards than the competitive foods standards to foods available, but not sold, in schools. These include [list the chosen standards to foods available, but not sold, in schools].

The AHG encourages school officials to consider prohibiting foods as a reward and using the *Smart Snacks* standards for foods available, but not sold during the school day. However, enforcing such standards against students who are sent to school with snacks from their parents/guardians is difficult and may be considered overreach. Further, such a standard may open the district to challenges. Consult the board attorney about enforcement of standards that meet the *competitive foods* standards – or even more stringent standards – upon foods available, but not sold during the school day, i.e., choosing Options 1 or 2, above.

<sup>18</sup> Required by 23 Ill.Admin.Code §305.15(c)(2), 7 C.F.R. §§210.11(b)(4), (c)(2) and 210.30(c)(2) for participating schools that want to grant EFDs.

For elementary districts, delete these sentences: ~~The Superintendent or designee in a participating school may grant an EFD for grades 9 through 12 in participating schools. To request an EFD and learn more about the District’s related procedure(s), contact the Superintendent or designee. The District’s procedures are subject to change. The number of EFDs for grades 9 through 12 in participating schools is set by ISBE rule.~~

For high school districts, delete this sentence: ~~EFDs are prohibited for grades eight and below in participating schools.~~

Detailed procedures are subject to change and are too complicated for policy text. This policy seeks to balance the requirement to include procedures in the policy for requesting an EFD by providing information about the initial steps and directing the superintendent or designee to inform the requestor of the current procedure. For a list of the number of available EFDs and a more detailed sample step-by-step procedure to request them, see [sample administrative procedure 4:120-AP, Food Services; Competitive Foods; Exemptions](#).

<sup>19</sup> Inclusion in the policy is required for only those districts that participate in a program authorized by the NSLA or the Child Nutrition Act.

<sup>20</sup> Child Nutrition Act of 1966 (42 U.S.C. §1771 *et seq.*) and NSLA (42 U.S.C. §1758).

<sup>21</sup> 105 ILCS 5/2-3.189, added by P.A. 102-359 and renumbered by P.A. 102-813.

<sup>22</sup> *Needy students* is not defined by 105 ILCS 5/2-3.189, added by P.A. 102-359 and renumbered by P.A. 102-813.



3. Ensure the Plan complies with the Richard B. Russell National School Lunch Act, as well as accompanying guidance from the U.S. Department of Agriculture on the Food Donation Program.<sup>23</sup>
4. Ensure that any leftover food items are properly donated to combat potential food insecurity in the District's community. *Properly* means in accordance with all federal regulations and State and local health and sanitation codes.

### Monitoring<sup>24</sup>

At least every three years, the Superintendent shall provide implementation data and/or reports to the Board concerning this policy's implementation sufficient to allow the Board to monitor and adjust the policy (a triennial report).<sup>25</sup> This triennial report must include without limitation each of the following:

- An assessment of the District's implementation of the policy
- The extent to which schools in the District are in compliance with the policy
- The extent to which the policy compares to model local school wellness policies
- A description of the progress made in attaining the goals of the policy
- How the District will make the results of the assessment available to the public
- Where the District will retain records of the assessment<sup>26</sup>
- The Board will monitor and adjust the policy pursuant to policy 2:240, *Board Policy Development*.

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<sup>23</sup> Required for districts that participate in child nutrition programs, the National School Lunch Program and National School Breakfast Program, the Child and Adult Care Food Program (CACFP), and the Summer Food Service Program (SFSP). See 105 ILCS 5/2-3.189, added by P.A. 102-359 and renumbered by P.A. 102-813.

Delete number 3 *only if* the district participates in none of the programs listed.

Food sharing plans will depend on many local factors and require local health department involvement, so because of that, a sample **PRESS** administrative procedure is not practical and does not exist.

<sup>24</sup> The policy must establish a plan for measuring implementation of the local wellness policy, including designation of one or more persons within the local educational agency at each school, as appropriate, charged with operational responsibility for ensuring that the school meets the local wellness policy. Pub. L. 108-265, Sec. 204(a)(4); 105 ILCS 5/2-3.139(a)(4); and 7 C.F.R. §210.31(c)(5), (6), and (e)(1). 105 ILCS 110/3.5(a) requires ISBE to develop and maintain a nutrition and physical activity best practices database. Materials may be found at: [www.isbe.net/Pages/Nutrition-and-Wellness.aspx](http://www.isbe.net/Pages/Nutrition-and-Wellness.aspx).

<sup>42</sup> U.S.C. §1758b(b)(5)(A) (Pub. L. 111-296) requires the public to receive periodic measures with the listed items. The accepted practice is annual reports. There is very little guidance to assist school districts in complying with this requirement, and school districts were expected to be working toward developing a reasonable method to implement this requirement by the end of the 2011-2012 school year. Without guidance, to ensure compliance, superintendents should contact their Regional Office of Education or Intermediate Service Center regarding their school districts' efforts to comply with this requirement. A guide to help school districts conduct an evaluation of local wellness policies is available, along with more guidance at: [www.fns.usda.gov/tn/local-school-wellness-policy](http://www.fns.usda.gov/tn/local-school-wellness-policy).

<sup>25</sup> 7 C.F.R. §210.31(e)(2)(i)-(iii) and (3).

<sup>26</sup> Id. and §210.31(f); see also the Local Records Act, 50 ILCS 205/. It governs retention of district records; its definition of *public record* is narrower than the definition in the Freedom of Information Act. These communications must be retained only when they contain: (1) evidence of the district's organization, function, policies, procedures, or activities, or (2) informational data appropriate for preservation. Consult the board attorney for a more thorough analysis and a legal opinion about how to meet both of the federal records retention requirements discussed in f/n 28, below, and the Local Records Act.

## Community Involvement <sup>27</sup>

The Board and Superintendent will actively invite suggestions and comments concerning the development, implementation, periodic reviews, and updates of the school wellness policy from parents, students, representatives of the school food authority, teachers of physical education, school health professionals, the school board, school administrators, and the community. Community involvement methods shall align their suggestions and comments to policy 2:140, *Communications To and From the Board* and/or the **Community Engagement** subhead in policy 8:10, *Connection with the Community*. <sup>28</sup>

## Recordkeeping <sup>29</sup>

The Superintendent shall retain records to document compliance with this policy, the District's records retention protocols, and the Local Records Act.

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<sup>27</sup> A board must establish a plan in its wellness policy for involving parents, students, and representatives of the school food authority, teachers of physical education, school health professionals, the school board, school administrators, and the public in the development of the school wellness policy. Pub.L. 108-265, Sec. 204(a)(5), ~~amended by:~~ 42 U.S.C. §1758b(b)(3) (Pub.L. 111-296); 105 ILCS 5/2-3.139(a)(3); 7 C.F.R. §210.31(c)(5) (requirement to describe involvement plan in policy), and 7 C.F.R. §210.31(d)(1) (requirement to allow certain stakeholders to participate in policy development, etc.).

School districts have discretion in exactly how they implement this requirement, and [e]ach [school district] is best suited to determine the distinctive needs of the community it serves. See Federal Register Vol. 81, No. 146 at 50155 at: [www.gpo.gov/fdsys/pkg/FR-2016-07-29/pdf/2016-17230.pdf](http://www.gpo.gov/fdsys/pkg/FR-2016-07-29/pdf/2016-17230.pdf).

This requirement's awkward wording notwithstanding, a board may take compliance steps by:

Seeking community input or involvement during this policy's adoption and monitoring phases, and inviting suggestions and comments during the public comment portion of board meetings from time to time. This method aligns with [sample policies](#) 2:140, *Communications To and From the Board*, and 2:240, *Board Policy Development*.

Establishing a "local school wellness committee." This method is discussed in the preamble to 7 C.F.R. §210.31(d)(1), which suggests "identifying individuals" to serve on a "local school wellness policy committee." **However, the final text of 7 C.F.R. §210.31(d)(1) does not specifically require districts to establish a local school wellness policy committee – only that they "permit [groups listed in the policy above] to participate ...."** See also the citation to the Federal Register, in the second paragraph of this f/n, above, discussing policy implementation discretion.

The default text of this policy follows item #1 above and does not establish a local school wellness committee. For a district that wants to appoint or approve a local school wellness committee, add the following optional sentence as the last sentence of this subhead: "As necessary, the Superintendent or designee will convene a Wellness Committee with at least one representative from each of the listed groups." Also list the Wellness Committee in [sample administrative procedure](#) 2:150-AP, *Superintendent Committees*. As much of the work of developing a plan to involve local stakeholders is administrative/staff work rather than governance work, best practice is for a Wellness Committee be an administrative committee, but consult the board attorney for guidance. See f/n 3 in [sample](#) policy 2:150, *Committees*, for a discussion of Open Meetings Act implications of the Wellness Committee being a board committee.

If a board wants to comply with the USDA's *encouragement* to include Supplemental Nutrition Assistance Program Education (SNAP-ED) coordinators or educators in the group to provide input about the policy, add:

“, Supplemental Nutrition Assistance Program Education (SNAP-ED) coordinators, educators” to the end of the first sentence in this subhead, immediately before: “, and community.”

<sup>28</sup> If a board has not adopted the **Community Engagement** subhead in policy 8:10, *Connection with the Community*, delete the phrase at the end of the second sentence: “Individuals shall align their suggestions and comments to policy 2:140, *Communications To and From the Board* and/or the **Community Engagement** subhead in policy 8:10, *Connection with the Community*.”

A board may also choose to post this policy on its website and include it in the student handbook.

<sup>29</sup> 7 C.F.R. §210.31(f). Records must include: (1) the policy; (2) documentation demonstrating compliance with community involvement requirements, including requirements to make the local school wellness policy and triennial assessments available to the public; and (3) documentation of the triennial assessment of the local school wellness policy for each school under its jurisdiction.

See f/n 25, above regarding the Local Records Act and [sample administrative procedure](#) 2:250-AP2, *Protocols for Record Preservation and Development of Retention Schedules*.

- LEGAL REF.: Pub. L. 108-265, Sec. 204, Child Nutrition and WIC Reauthorization Act of 2004.  
~~42 U.S.C. §1771 et seq., Child Nutrition Act of 1966.~~  
42 U.S.C. §1751 et seq., [Richard B. Russell](#) National School Lunch Act.  
42 U.S.C. §1758b, Pub. L. 111-296, Healthy, Hunger-Free Kids Act of 2010.  
~~42 U.S.C. §1771 et seq., Child Nutrition Act of 1966.~~  
42 U.S.C. §1779, as implemented by 7 C.F.R. §§210.11 and 210.31.  
50 ILCS 205/, Local Records Act.  
105 ILCS 5/2-3.139 and 5/2-3.189.  
23 Ill.Admin.Code Part 305, Food Program.  
ISBE's *School Wellness Policy* Goal, adopted Oct. 2007.
- CROSS REF.: 2:140 (Communications To and From the Board), 2:150 (Committees), 2:240 (Board Policy Development), 4:120 (Food Services), 5:100 (Staff Development Program), 6:60 (Curriculum Content), 7:260 (Exemption from Physical Education), 8:10 (Connection with the Community)

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While 7 C.F.R. §210.31(f) does not require the policy text to state what records must be kept, a board that wants to include that information may insert the following text: "Records must include: (1) this policy; (2) documentation demonstrating compliance with community involvement, including requirements to make the policy and triennial assessments available to the public; and (3) documentation of the triennial assessment of this policy for each school under its jurisdiction."

## Instruction

### Curriculum Content <sup>1</sup>

The curriculum shall contain instruction on subject required by State statute or regulation as follows:

1. In kindergarten through grade 8, subjects include: (a) language arts, (b) reading,<sup>2</sup> (c) other communication skills, (d) science, (e) mathematics<sup>3</sup>, (f) social studies, (g) art, (h) music,<sup>4</sup> and (i) drug and substance abuse prevention including the dangers of opioid abuse.<sup>5</sup> A reading opportunity of 60 minutes per day will be promoted for all students in kindergarten through grade 3 whose reading levels are one grade level or more lower than their current grade level.<sup>6</sup> Daily time of at least 30 minutes (with a minimum of at least 15 consecutive minutes if divided) will be provided for supervised, unstructured, child-directed play for all students in

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<sup>1</sup> Districts must have a policy on physical education (23 Ill.Admin.Code §1.425) and what grade level(s) students will be offered cursive writing instruction (105 ILCS 5/27-20.7). Policies on the remaining topics in this policy are optional. State or federal law controls this policy's content. 23 Ill.Admin.Code §1.420, recommends that activities, including student internships and observations of government in action, be a part of the instructional program where appropriate.

State law mandates certain courses of study but local school boards may set requirements exceeding State-law mandated courses of study. 105 ILCS 5/10-20.8 and 5/27-1 *et seq.* For a resource on instructional mandates, see *Illinois Instructional Mandates* (formerly *Mandated Units of Study*), at: [www.isbe.net/Pages/Learning-Standards.aspx](http://www.isbe.net/Pages/Learning-Standards.aspx), under the Administrator Resources tab.

<sup>2</sup> [105 ILCS 5/2-3.196, added by P.A. 103-402, requires the Ill. State Board of Education \(ISBE\) to develop a Statewide literacy plan by 1-31-24, make certain resources and guidance on literacy curriculum and instruction available to schools by 7-1-24, and offer training opportunities for teachers by 7-1-25. For further information, see \[www.isbe.net/literacyplan\]\(http://www.isbe.net/literacyplan\).](#)

<sup>3</sup> 105 ILCS 5/2-3.156 requires ~~the Ill. State Board of Education (ISBE)~~ to coordinate, adapt and develop middle and high school math curriculum models. There is no consistent definition for *middle school or high school* in either State or federal law. Districts are not required to use ISBE's models and may develop their own mathematics curricula.

The purpose of the math curriculum models will be to aid school districts and teachers in implementing the *Common Core Standards*. ~~The ISBE has~~ adopted ~~new~~ math and English language arts (ELA) standards for K-12 education referred to as the *New Ill. State Learning Standards Incorporating the Common Core*. The goal of incorporating the *Common Core Standards* into the *State Goals for Learning and Learning Standards* is to better prepare Ill. students for success in college and the workforce in a competitive global economy. See [www.isbe.net/Documents/cc-overview-0913.pdf](http://www.isbe.net/Documents/cc-overview-0913.pdf). [www.isbe.net/Documents/ees-faq-0813.pdf](http://www.isbe.net/Documents/ees-faq-0813.pdf).

The terms *Common Core Standards* and the *New Ill. State Learning Standards Incorporating the Common Core* are synonymous. Referencing the Ill. Learning Standards includes them both. That is because they are incorporated by reference into ISBE's rules and *State Goals for Learning and Learning Standards*. A district that wants to include the term *Common Core Standards* in its policy may do so; however, districts should understand that referring to the *Common Core Standards* only will cover only math and ELA learning standards and goals and not any other subject areas that the *Ill. Learning Standards* cover. The best practice is to continue using *Ill. Learning Standards*, which includes the *Common Core Standards*.

<sup>4</sup> 23 Ill.Admin.Code §1.430(a).

<sup>5</sup> 105 ILCS 5/27-13.2, amended by P.A. 102-195, requires that in addition to instruction, study, and discussion of effective methods for the prevention and avoidance of drugs and substance abuse, the subject must also cover the dangers of opioid abuse. [See also f/n 33, below, regarding instruction on the dangers of fentanyl.](#)

<sup>6</sup> 105 ILCS 5/10-20.53.

kindergarten through grade 5.<sup>7</sup> Before the completion of grade 5, students will be offered at least one unit of cursive instruction.<sup>8</sup> In grades 6, 7, or 8, students must receive at least one semester of civics education in accordance with Illinois Learning Standards for social science.<sup>9</sup>

2. In grades 9 through 12, subjects include:<sup>10</sup> (a) language arts, (b) writing intensive courses, (c) science, (d) mathematics,<sup>11</sup> (e) social studies including U.S. history, American government and one semester of civics,<sup>12</sup> (f) foreign language,<sup>13</sup> (g) music, (h) art, (i) driver and safety education,<sup>14</sup> and (j) vocational education.

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<sup>7</sup> 105 ILCS 5/27-6.3, added by P.A. 102-357. Schools must provide at least 30 minutes of play time for any school day five clock hours or longer in length. For any school days less than that, the total time allotted during the school day must be at least one-tenth of a day of attendance for the student. Time spent dressing or undressing for outdoor play may not count towards the daily time allotment. Play time must be computer-, tablet-, phone-, and video-free. Play time may be withheld as a disciplinary or punitive action only if a student's participation poses an immediate threat to the safety of the student or others. Id. For ISBE guidance and resources, see [www.isbe.net/Pages/School-Health-Issues.aspx](http://www.isbe.net/Pages/School-Health-Issues.aspx) (Unstructured Play Time/Recess dropdown).

<sup>8</sup> 105 ILCS 5/27-20.7 requires districts to offer students a unit of cursive instruction before they complete grade 5. Other than before completing grade 5, the law is silent about what grade level(s) in which students must receive their unit of cursive instruction. This provides an opportunity for a board to have a conversation with the superintendent about local community expectations and direct him or her to determine the appropriate grade level(s) in which students will be offered a unit of cursive instruction.

Use the following alternative if the board wants to specify grade level(s) before the end of grade 5 in which cursive instruction will be offered:

A unit of cursive instruction will be offered in grade(s) \_\_\_\_\_.

<sup>9</sup> 105 ILCS 5/27-3.10, ~~added by P.A. 101-254~~. The statute specifically states that school districts may utilize private funding available for offering civics education.

<sup>10</sup> 105 ILCS 5/27-22, amended by P.A.s ~~101-643, 101-654~~, 102-366, 102-551, and 102-864; 23 Ill.Admin.Code §1.440. ISBE may adopt rules to modify these requirements for students in grades 9 through 12 if the Governor declares a disaster due to a public health emergency pursuant to 20 ILCS 3305/7. 105 ILCS 5/27-22(e)(3.5), amended by P.A. ~~101-654 and~~ 102-864, and 5/27-22(e)(3.5) and (e-5)(3.5), added by P.A. 102-864, requires "a year of a course that includes intensive instruction in computer literacy, which may be English, social studies, or any other subject." Because computer literacy may be included within another subject, it is not listed here, but in number 6 of this policy with f/n ~~265~~, below.

<sup>11</sup> 105 ILCS 5/2-3.156. See f/n 2.

105 ILCS 5/27-22(e)(3), ~~amended by P.A. 101-464~~, allows the substitution of an advanced placement computer science course for a year of mathematics. For specific requirements, see [sample exhibit](#) 6:300-E2, *State Law Graduation Requirements*, and [sample policy](#) 6:310, *High School Credit for Non-District Experiences; Course Substitutions; Re-entering Students*.

<sup>12</sup> 105 ILCS 5/27-22(e)(5). The statute specifically states that school districts may utilize private funding available for offering civics education.

<sup>13</sup> The General Assembly encouraged school boards to implement American Sign Language courses into the school foreign language curriculum. 105 ILCS 5/10-20.52. Senate Joint Resolution 68 (96th General Assembly, 2010) encourages school districts to explore the introduction of Arabic as a foreign language in their curriculums.

<sup>14</sup> The ISBE rule on driver education personnel is found at 23 Ill.Admin.Code §252.40. School districts may contract with a commercial driver training school (CDTS) for driver education. 105 ILCS 5/27-24.2, ~~amended by P.A. 101-450~~. To qualify to contract with a school district, a CDTS must: (a) hold a valid license issued by the Ill. Sec. of State; (b) provide teachers who meet the educator licensure and endorsement requirements under 105 ILCS 5/21B; and (c) follow the same evaluation and observation requirements that apply to non-tenured teachers under 105 ILCS 5-24-A. Id. A district contracting with a CDTS must provide a list to ISBE of the CDTS instructors. Id. The list must include the name, personal ISBE identification number, birth date and driver's license number of each instructor who will teach driver education. Id. Although a formal waiver for outsourcing of driver's education is no longer required, districts must consider their applicable collective bargaining agreement(s), board policy, and the reduction in force (RIF) provisions of the School Code as they relate to outsourcing of instructional staff. Consult the board attorney for guidance.

Students otherwise eligible to take a driver education course must receive a passing grade in at least eight courses during the previous two semesters before enrolling in the course. The Superintendent or designee may waive this requirement if he or she believes a waiver to be in the student's best interest.<sup>15</sup> The course shall include: (a) instruction necessary for the safe operation of motor vehicles, including motorcycles, to the extent that they can be taught in the classroom,<sup>16</sup> (b) classroom instruction on distracted driving as a major traffic safety issue,<sup>17</sup> (c) instruction on required safety and driving precautions that must be observed at emergency situations, highway construction and maintenance zones, and railroad crossings and their approaches,<sup>18</sup> and (d) instruction concerning law enforcement procedures for traffic stops, including a demonstration of the proper actions to be taken during a traffic stop and appropriate interactions with law enforcement.<sup>19</sup> Automobile safety instruction covering traffic regulations and highway safety must include instruction on the consequences of alcohol consumption and the operation of a motor vehicle.<sup>20</sup> The eligibility requirements contained in State law for the receipt of a certificate of completion from the Secretary of State shall be provided to students in writing at the time of their registration. <sup>21</sup>

3. In grades 7 through 12, as well as in interscholastic athletic programs, steroid abuse prevention must be taught. <sup>22</sup>
4. In kindergarten through grade 12, provided it can be funded by private grants or the federal government, violence prevention and conflict resolution must be stressed, including: (a) causes of conflict, (b) consequences of violent behavior, (c) non-violent resolution, and (d) relationships between drugs, alcohol, and violence.<sup>23</sup> In addition, anti-bias education and intergroup conflict resolution may be taught as an effective method for preventing violence and

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A school district may decide to allow a student to take a portion of the driver education course through a distance learning course. This is determined on a case-by-case basis and must be approved by the district's administration, the student's driver's education teacher, and the student's parent/guardian. 105 ILCS 5/27-24.2, ~~amended by P.A. 101-183~~; 23 Ill.Admin.Code §252.20(c)(2).

<sup>15</sup> 105 ILCS 5/27-24.1, amended by P.A. 102-455, and 5/27-24.2; 23 Ill.Admin.Code §252.20(c)(2).

<sup>16</sup> Id.

<sup>17</sup> Id.

<sup>18</sup> Id.

<sup>19</sup> Id.

<sup>20</sup> 105 ILCS 5/27-17, amended by P.A. 102-971, ~~eff. 1-1-23~~.

<sup>21</sup> The Ill. Vehicle Code, 625 ILCS 5/6-408.5, amended by P.A. 102-1100, contains these requirements; they are paraphrased below and may be added to the policy or otherwise disseminated.

Before a certificate of completion will be requested from the Secretary of State, a student must receive a passing grade in at least eight courses during the two semesters last ending before requesting the certificate. A certificate of completion will not be requested for any person less than 18 years of age who has dropped out of school unless the individual provides:

1. Written verification of his or her enrollment in a high school equivalency or alternative education program or a State of Illinois High School Diploma (formerly GED certificate);
2. Written verification that before dropping out, the individual had received passing grades in at least eight courses during the two previous semesters last ending before requesting a certificate;
3. Written consent from the individual's parent/guardian and the Regional Superintendent; or
4. Written waiver from the Superintendent of the School District in which the individual resides or resided at the time he or she dropped out of school, or from the chief school administrator with respect to a dropout who attended a non-public high school. A waiver may be given if the Superintendent or chief administrator deems it to be in the individual's best interests.

<sup>22</sup> 105 ILCS 5/27-23.3.

<sup>23</sup> 105 ILCS 5/27-23.4.

lessening tensions in schools; these prevention methods are most effective when they are respectful of individuals and their divergent viewpoints and religious beliefs, which are protected by the First Amendment to the Constitution of the United States. <sup>24</sup>

5. In grades kindergarten through 12, age-appropriate Internet safety must be taught, the scope of which shall be determined by the Superintendent or designee. The curriculum must incorporate policy 6:235, *Access to Electronic Networks*, and, at a minimum, include: (a) education about appropriate online behavior, (b) interacting with other individuals on social networking websites and in chat rooms, and (c) cyberbullying awareness and response. <sup>25</sup>
6. In all grades, students must receive developmentally appropriate opportunities to gain computer literacy skills that are embedded in the curriculum. <sup>26</sup>
7. In all grades, character education must be taught including respect, responsibility, fairness, caring, trustworthiness, and citizenship in order to raise students' honesty, kindness, justice, discipline, respect for others, and moral courage.<sup>27</sup> Instruction in all grades will include

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<sup>24</sup> Optional. 105 ILCS 5/27-23.6 ~~entitled (Anti-bias education)~~ allows districts to incorporate activities to address intergroup conflict, with the objectives of improving intergroup relations on and beyond the school campus, defusing intergroup tensions, and promoting peaceful resolution of conflict.

Boards that adopt a policy to incorporate activities to address intergroup conflict pursuant to this law must make information available to the public that describes the manner in which the district has implemented the activities. Methods for making this information available include: the district's website, if any, and in the district's offices upon request. See [sample exhibit 2:250-E2, Immediately Available District Public Records and Web-Posted Reports and Records](#). Districts may also include the information in a student handbook and in district newsletters. The Ill. Principals Association (IPA) maintains a handbook service that coordinates with PRESS material, Online Model Student Handbook (MSH), at: [www.ilprincipals.org/msh](http://www.ilprincipals.org/msh).

See f/n 12 in sample policy 6:180, *Extended Instructional Programs*, and ensure that these policies align.

<sup>25</sup> 47 C.F.R. §54.520 and 105 ILCS 5/27-13.3 control this section. "Grades kindergarten through 12" is used because federal law requires school districts that receive E-rate funding to certify that they have an Internet safety education policy for all minors. 47 C.F.R. §54.520(c)(1)(i). This federal law defines minors as any individual who has not attained the age of 17 years. 47 C.F.R. §54.520(a)(4)(i).

105 ILCS 5/27-13.3 only requires a unit on Internet safety for students in grades 3 or above. It recommends seven topics for the unit on Internet safety and required ISBE to "make available resource materials for educating children regarding child online safety." See [www.isbe.net/Pages/Internet-Safety.aspx](http://www.isbe.net/Pages/Internet-Safety.aspx). It also invites schools to "adopt an age-appropriate curriculum for Internet safety instruction of students in grades kindergarten through 12."

For boards that do not receive E-rate funds and do not want to exceed the requirements of the School Code, replace this section with the following sentence:

In grades 3 or above, the curriculum contains a unit on Internet safety, the scope of which shall be determined by the Superintendent or designee.

For boards that do not receive E-rate funds, but want to exceed the requirements of 105 ILCS 5/27-13.3 to include grades K-2, replace this section with the following sentences:

In grades 3 or above, the curriculum contains a unit on Internet safety, the scope of which shall be determined by the Superintendent or designee. In kindergarten through grade 2, age-appropriate Internet safety must be taught.

<sup>26</sup> 105 ILCS 5/10-20.79, ~~added by P.A. 101-654 and renumbered by P.A. 102-813~~, 5/10-20.74, and 5/27-22(e)(3.5), ~~added by P.A. 101-654 and~~ amended by P.A. 102-894, and 5/27-22(e-5)(3.5), added by P.A. 102-894. 105 ILCS 5/10-20.74, ~~added by P.A. 101-654~~, requires that districts submit an annual report to ISBE regarding educational technology capacities and policies. See the subhead **Educational Technology Committee** and f/n 20 in [sample administrative procedure 2:150-AP, Superintendent Committees](#).

<sup>27</sup> 105 ILCS 5/27-12.

examples of behaviors that violate policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.<sup>28</sup>

8. In all schools, citizenship values must be taught, including: (a) American patriotism, (b) principles of representative government (the American Declaration of Independence, the Constitution of the United States of America and the Constitution of the State of Illinois), (c) proper use and display of the American flag, (d) the Pledge of Allegiance, and (e) the voting process.<sup>29</sup>
9. In all grades, physical education must be taught including a developmentally planned and sequential curriculum that fosters the development of movement skills, enhances health-related fitness, increases students' knowledge, offers direct opportunities to learn how to work cooperatively in a group setting, and encourages healthy habits and attitudes for a healthy lifestyle. Unless otherwise exempted, all students are required to engage in a physical education course with such frequency as determined by the Board after recommendation from the Superintendent,<sup>30</sup> but at a minimum of three days per five-day week.<sup>31</sup> For exemptions and substitutions, see policies 6:310, *High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students* and 7:260, *Exemption from Physical Education*.<sup>32</sup>

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<sup>28</sup> Required as part of a district's Bullying Prevention and Response Plan pursuant to 105 ILCS 5/27-23.7. Because of the negative outcomes associated with bullying in schools, the Ill. General Assembly has found "that [school districts] should educate students, parents, and [school district personnel] about what behaviors constitute prohibited bullying." 105 ILCS 5/27-23.7(a). This language aligns with [sample](#) policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.

The Ill. General Assembly invited boards to "make suitable provisions for instruction in gang resistance education and training in all grades and include such instruction in the courses of study regularly taught in those grades." See 105 ILCS 5/27-23.10(c). A board that shares this concern may add the following option: "In addition, in all grades gang resistance education and training must be taught."

<sup>29</sup> 105 ILCS 5/27-3 requires the Pledge of Allegiance to be recited every day in elementary and secondary schools. See also *Palmer v. City of Chicago*, 466 F. Supp. 600 (N.D. Ill. 1979) (teacher would not teach and direct the Pledge of Allegiance to the flag of the United States for religious reasons and was terminated for not doing so because it was part of the curriculum). Requirements for displaying a U.S. flag at each school and in each classroom are found in 5 ILCS 465/3 and 465/3a.

Note that the Illinois statute does not require every student to recite the *Pledge* – that kind of mandatory participation would violate the U.S. Constitution. Schools may not coerce a student into saying the Pledge, nor may they punish students for refusing to participate in any aspect of the flag ritual, including standing, saluting the flag, and reciting the *Pledge*. *West Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624 (1943); *Sherman v. Cmty. Consol. Sch. Dist. 21 of Wheeling Twp.*, 980 F.2d 437 (7th Cir. 1992). Consider using permissive rather than mandatory language to introduce the recitation of the *Pledge*, such as, "You may now stand to recite the *Pledge*." Schools may, of course, require that non-participants maintain order and decorum appropriate to the school environment.

<sup>30</sup> The phrase "after recommendation by the Superintendent" is optional. If a superintendent does not bring this topic to the board for discussion, the board may not have a trigger to make the determination.

<sup>31</sup> 23 Ill.Admin.Code §1.425(b). Boards that want their daily physical education requirement to align with their goal in policy 6:50, *School Wellness*, may replace "minimum of three days per five-day week" with their local daily requirements. See f/n 10 in sample policy 6:50, *School Wellness*.

<sup>32</sup> 105 ILCS 5/27-5 requires school boards to provide for students' physical education and allows the P.E. course offered in grades 5 through 10 to include the health education courses required by State law. See also 23 Ill.Admin.Code §1.425.

105 ILCS 5/27-6, describes when students may be excused from P.E. See also 23 Ill.Admin.Code §1.425(d).

105 ILCS 5/27-6 contains an exception to the minimum of three days per five-day week P.E. requirement for schools engaged in block scheduling; if this is applicable, substitute this sentence for the second-to-last sentence in this paragraph:

Unless otherwise exempted, all students are required to engage with such frequency as determined by the Board, but at a minimum of three days per five-day week, during the school day, except on block scheduled days, in a physical education course.



10. In all schools, health education must be stressed, including<sup>33</sup>: (a) proper nutrition, (b) physical fitness, (c) components necessary to develop a sound mind in a healthy body, (d) dangers and avoidance of abduction,~~and~~ (e) age-appropriate and evidence-informed sexual abuse and assault awareness and prevention education in all grades,<sup>34</sup> and (f) beginning in the fall of 2024, in grades 9-12, the dangers of fentanyl. The Superintendent shall implement a comprehensive health education program in accordance with State law.<sup>35</sup>

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105 ILCS 5/27-6.5 describes physical fitness assessments required, beginning with the 2016-17 school year and every school year thereafter, for grades 3-12 in an effort to meet State Goal 20 of the Illinois Learning Standards for Physical Development and Health at: [www.isbe.net/Pages/Enhanced-Physical-Education.aspx](http://www.isbe.net/Pages/Enhanced-Physical-Education.aspx)~~www.isbe.net/Pages/School-Health-Issues.aspx~~.

See also 23 Ill.Admin.Code §1.425 (g) and (h); ISBE's *IL Fitness Assessments and Data Reporting Requirements Questions and Answers (Rev. 2017)* at: [www.isbe.net/Documents/Physical-Fitness-Assessment-FAQ.pdf](http://www.isbe.net/Documents/Physical-Fitness-Assessment-FAQ.pdf).

105 ILCS 5/27-7 describes the goals and requirements for P.E. courses; these are re-stated in this sample policy.

<sup>33</sup> Citations for letters (a) - (e), required by the Comprehensive Health Education Program (105 ILCS 110/3) in this paragraph follow:

(a) 105 ILCS 5/2-3.139 and 105 ILCS 5/27-7 (proper nutrition) and see also sample policy 6:50, *School Wellness*.

(b) Id. (physical fitness) and see also sample policy 6:50, *School Wellness*.

(c) Id. (sound mind and healthy body).

(d) 105 ILCS 5/27-13.2 (dangers and avoidance of abduction). The Ill. State Police and ISBE must develop instruction on child abduction prevention. 20 ILCS 2605/2605-480.

(e) 105 ILCS 110/3, amended by P.A.s ~~101-305~~, 102-464, and 102-1034, ~~eff. 1-1-23~~, and 105 ILCS 5/10-23.13, amended by P.A. 102-610 a/k/a *Erin's Law* (child sexual abuse prevention). While 105 ILCS 5/10-23.13(b) states pre-K through 12th, this policy uses *all grades* for brevity and ease of administration. *Erin's Law* requires a policy addressing child sexual abuse prevention and curriculum content on that subject (see sample policy 4:165, *Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors*). A sentence in [sample administrative procedure 6:60-AP1, Comprehensive Health Education Program](#), restates the basic recommendations from page 16 of the *Erin's Law* Taskforce Final Report (Report) to Governor Quinn at: [www.isbe.net/Documents/erins-law-final0512.pdf](http://www.isbe.net/Documents/erins-law-final0512.pdf), which was the basis for P.A. 102-676. The professional educator training component of *Erin's Law* is addressed in sample policies 5:90, *Abused and Neglected Child Reporting* and 5:100, *Staff Development Program*. The Report also encouraged parental involvement because parents play a key role in protecting children from child sexual abuse.

(f) 105 ILCS 5/27-13.2(c), added by P.A. 103-365 (dangers of fentanyl).

<sup>34</sup> See f/n 11 in sample policy 4:165, *Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors*, for a definition of *evidence-informed*. 105 ILCS 5/10-23.13, amended by P.A. 102-610.

<sup>35</sup> 105 ILCS 110/3, amended by P.A.s ~~101-305~~, 102-464, ~~and~~ 102-1034, [103-212](#), eff. 1-1-~~24~~<sup>23</sup>, and 103-365, eff. 1-1-24; and 23 Ill.Admin.Code §1.420(n). Each school system shall provide a program in compliance with the Critical Health Problems and Comprehensive Health Education Act, 105 ILCS 110/.

More detailed health problems and comprehensive health education program content is described in [sample administrative procedure 6:60-AP1, Comprehensive Health Education Program](#). That procedure follows the Comprehensive Health Education Program law (CHEP), 105 ILCS 110/3, amended by P.A.s ~~101-305~~, 102-464, ~~and~~ 102-1034, [103-212](#), eff. 1-1-~~24~~<sup>23</sup>, and 103-365, eff. 1-1-24, and it formerly included the requirements for the development of the now-repealed family life and sex education programs in 105 ILCS 5/27-9.1 and 9.2, amended by P.A.s ~~100-684, 101-579~~, 102-412 and repealed by P.A. 102-522.

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The former family life and sex education programs were replaced with the National Sex Education Standards (NSES) (105 ILCS 5/27-9.1a, added by P.A. 102-522) and a developmentally appropriate consent education curriculum (105 ILCS 5/27-9.1b, added by P.A. 102-522). But the term *family life*, “including evidence-based and medically accurate information regarding sexual abstinence,” remains in the CHEP (105 ILCS 110/3, amended by P.A.s ~~101-305~~, 102-464, and 102-1034, ~~eff. 1-1-23~~). The CHEP also includes many other health education topics that all elementary and secondary schools in Illinois must provide, including teen dating violence (105 ILCS 110/3.10, see sample policy 7:185, *Teen Dating Violence Prohibited*, for the required “teen dating violence policy”) and cardiopulmonary resuscitation and automated external defibrillator use. 105 ILCS 110/3. For ease of administration, [sample administrative procedure](#) 6:60-AP1, *Comprehensive Health Education Program*, content includes reference to the new NSES curriculum that is outlined in more detail at [sample administrative procedure](#) 6:60-AP2, *Comprehensive Personal Health and Safety and Sexual Health Education Program (National Sex Education Standards (NSES))*. 105 ILCS 5/27-9.1a, added by P.A. 102-522. ISBE’s learning standards and resources are available at [www.isbe.net/sexualhealth](http://www.isbe.net/sexualhealth), however, no guidance exists about whether districts that provide the now-repealed family life and sex education programs formerly in 105 ILCS 5/27-9.1 and 9.2, repealed by P.A. 102-522, could continue to do so. Consult the board attorney if the district offered the now-repealed family life and sex education program to assess whether that program may continue during future school years.

Two choices exist for school boards related to providing students with a sex education curriculum:

1. No sex education; or
2. NSES a/k/a Comprehensive Personal Health and Safety and Sexual Health Education Program (105 ILCS 5/27-9.1a, added by P.A. 102-522, and see [sample administrative procedure](#) 6:60-AP2, *Comprehensive Personal Health and Safety and Sexual Health Education Program (National Sex Education Standards (NSES))*).

While boards are not required to include sex education curriculum information in their policies, if they offer it, the new law requires them to identify the curriculum their districts use along with the name and contact information, including an email address, of a school staff member who can respond to inquiries about instruction and materials. 105 ILCS 5/27-9.1aI, added by P.A. 102-522. Methods for making this information available include: the district’s website, if any, and in the district’s offices upon request. See [sample exhibit](#) 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*.

**For boards that do offer NSES but do not wish to communicate it in this policy, ensure that superintendents:** (1) identify the curriculum along with the name and contact information, including an email address of the school staff member designated to respond to inquiries about instruction and materials (see 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*); and (2) implement both 6:60-AP1, *Comprehensive Health Education Program*, and 6:60-AP2, *Comprehensive Personal Health and Safety and Sexual Health Education Program (National Sex Education Standards (NSES))*.

**For boards that want to communicate to their communities in this policy that they offer NSES, insert the following text into the last sentence in number 10:**

The Superintendent shall implement a comprehensive health education program in accordance with State law, including a personal health and safety and sexual health education program (National Sex Education Standards) pursuant to 105 ILCS 5/27-9.1a.

Legal Reference insertions are not necessary with the statute in the text of the policy. Ensure: (1) the implementation of both 6:60-AP1, *Comprehensive Health Education Program* and 6:60-AP2, *Comprehensive Personal Health and Safety and Sexual Health Education Program (National Sex Education Standards (NSES))*, align with this policy; and (2) that the superintendent identifies the curriculum along with the name and contact information, including an email address of the school staff member designated to respond to inquiries about instruction and materials (see 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*).

**For boards that communicated NSES in this policy and also want to communicate that they additionally offer developmentally appropriate consent education curriculum, insert the following sentence as the last sentence of the number 10 paragraph:**

The Superintendent shall also implement a developmentally appropriate consent education curriculum pursuant to 105 ILCS 5/27-9.1b.

Legal Reference insertion is not necessary with the statute in the text of the policy. Ensure the implementation of 6:60-AP3, *Developmentally Appropriate Consent Education*, aligns with this policy.

**For boards that do offer NSES and do not communicate that in policy AND/OR boards that do not offer NSES, but want to communicate that they offer developmentally appropriate consent education curriculum, insert the following text into the last sentence in number 10:**

The Superintendent shall implement a comprehensive health education program in accordance with State law, including a developmentally appropriate consent education curriculum pursuant to 105 ILCS 5/27-9.1b.

11. In all schools, career/vocational education must be taught, including: (a) the importance of work, (b) the development of basic skills to enter the world of work and/or continue formal education, (c) good work habits and values, (d) the relationship between learning and work, and (e) if possible, a student work program that provides the student with work experience as an extension of the regular classroom. A career awareness and exploration program must be available at all grade levels. <sup>36</sup>
12. In grades 9 through 12, consumer education must be taught, including: (a) financial literacy, including consumer debt and installment purchasing (including credit scoring, managing credit debt, and completing a loan application); budgeting; savings and investing; banking (including balancing a checkbook, opening a deposit account, and the use of interest rates); understanding simple contracts; State and federal income taxes; personal insurance policies; the comparison of prices; higher education student loans; identity-theft security; and homeownership (including the basic process of obtaining a mortgage and the concepts of fixed and adjustable rate mortgages, subprime loans, and predatory lending); and (b) the roles of consumers interacting with agriculture, business, labor unions and government in formulating and achieving the goals of the mixed free enterprise system. <sup>37 38</sup>
13. ~~Beginning in the fall of 2022, i~~In grades 9 through 12, intensive instruction in computer literacy, which may be included as a part of English, social studies, or any other subject. <sup>39</sup>
14. ~~Beginning in the fall of 2022, i~~In grades 9 through 12, a unit of instruction on media literacy that includes, but is not limited to, all of the following topics: (a) accessing information to evaluate multiple media platforms and better understand the general landscape and economics of the platforms, and issues regarding the trustworthiness of the source of information; (b) analyzing and evaluating media messages to deconstruct media representations according to the authors, target audience, techniques, agenda setting, stereotypes, and authenticity to distinguish fact from opinion; (c) creating media to convey a coherent message using multimodal practices to a specific target audience that includes, but is not limited to, writing

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Legal Reference insertion is not necessary with the statute in the text of the policy. Ensure that implementation of 6:60-AP3, *Developmentally Appropriate Consent Education*, aligns with this policy.

<sup>36</sup> 23 Ill.Admin.Code §1.420(i). See 105 ILCS 435/, Vocational Education Act

A unit or high school district may offer workplace preparation instruction in grades 9 through 12 that covers legal protections in the workplace, including protection against sexual harassment and racial and other forms of discrimination and protections for employees. 105 ILCS 5/27-23.14, ~~added by P.A. 101-347 and renumbered by P.A. 102-558.~~

For high school and unit boards, insert “5/27-23.14,” after 105 ILCS 5/27-23.11 in the Legal References or if a board offers a course on hunting safety as part of its curriculum during the school day (see the option in f/n 52 below), after its Legal Reference 105 ILCS 5/27-23.13, and the following text to the end of number 11 if the board wants to offer workplace preparation instruction:

In grades 9-12, workplace preparation instruction will be offered, covering legal protections in the workplace, including protection against sexual harassment and racial and other forms of discrimination and protections for employees.

<sup>37</sup> 105 ILCS 5/27-12.1; 23 Ill.Admin.Code §1.420(k). P.A. 99-284 added these subjects to the required consumer education course: consumer debt, higher education student loans, and identity-theft security.

<sup>38</sup> For high school and unit boards that want to offer a unit of instruction about the process of naturalization pursuant to 105 ILCS 5/27-23.16, added by P.A. 102-472 and renumbered by P.A. 102-813, insert an optional number 13, and amend numbers after it accordingly:

13. In grades 9 through 12, a unit of instruction about the process of naturalization by which a foreign citizen or foreign national becomes a U.S. citizen that includes content from the components of the naturalization test administered by the U.S. Citizenship and Immigration Services.

<sup>39</sup> 105 ILCS 5/27-22(e)(3.5), ~~added by P.A. 101-654.~~ ISBE states that *Computer literacy* is broadly defined as one’s knowledge of an ability to use computers and related technologies efficiently and effectively. See [www.isbe.net/keeplearning](http://www.isbe.net/keeplearning) for more ISBE guidance on computer literacy.

blogs, composing songs, designing video games, producing podcasts, making videos, or coding a mobile or software application; (d) reflecting on media consumption to assess how media affects the consumption of information and how it triggers emotions and behavior; and (e) social responsibility and civics to suggest a plan of action in the class, school, or community for engaging others in a respectful, thoughtful, and inclusive dialogue over a specific issue using facts and reason. <sup>40</sup>

15. ~~Beginning in the fall of 2023, i~~In grades 9 through 12, an opportunity for students to take at least one computer science course aligned to Illinois learning standards. Computer science means the study of computers and algorithms, including their principles, hardware and software designs, implementation, and impact on society. Computer science does not include the study of everyday uses of computers and computer applications; e.g., keyboarding or accessing the Internet. <sup>41</sup>
16. In all schools, conservation of natural resources must be taught, including: (a) home ecology, (b) endangered species, (c) threats to the environment, and (d) the importance of the environment to life as we know it. <sup>42</sup>
17. In all schools, instruction as determined by the Superintendent or designee on United States (U.S.) history must be taught, including: (a) the principles of representative government, (b) the Constitutions of the U.S. and Illinois, (c) the role of the U.S. in world affairs, (d) the role of labor unions, (e) the role and contributions of ethnic groups, including but not limited to, ~~the~~ African Americans, Albanians, Asian Americans, Bohemians, Czechs, French, Germans, Hispanics (including the events related to the forceful removal and illegal deportation of Mexican-American U.S. citizens during the Great Depression), Hungarians, Irish, Italians, Lithuanians, Polish, Russians, Scots, and Slovaks in the history of this country and State, (f) a study of the roles and contributions of lesbian, gay, bisexual, and transgender (LGBT) people in the history of the U.S. and Illinois, (g) Illinois history, ~~and~~ (h) the contributions made to society by Americans of different faith practices, including, but not limited to, Muslim Americans, Jewish Americans, Christian Americans, Hindu Americans, Sikh Americans, Buddhist Americans, and any other collective community of faith that has shaped America, (i) Native American nations' sovereignty and self-determination, both historically and in the present day, with a focus on urban Native Americans, and (j) beginning in the fall of 2024, the

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<sup>40</sup> 105 ILCS 5/27-20.08, added by P.A. 102-55. *Media literacy* means the ability to access, analyze, evaluate, create, and communicate using a variety of objective forms, including, but not limited to, print, visual, audio, interactive, and digital texts. For additional resources, see [www.isbe.net/keeplearning](http://www.isbe.net/keeplearning).

<sup>41</sup> ~~Optional until fall 2023;~~ 105 ILCS 5/27-23.15(b), ~~added by P.A. 101-654. Subject to appropriation, school districts can apply for a competitive grant to support computer science programs. 105 ILCS 5/2-3.196, added by P.A. 103-264, eff. 1-1-24.~~

<sup>42</sup> 105 ILCS 5/27-13.1; 23 Ill.Admin.Code §1.420(l).

events of the Native American experience and Native American history within the Midwest and Illinois since time immemorial in accordance with 105 ILCS 5/27-20.05. <sup>43</sup>

In addition, all schools shall hold an educational program on the United States Constitution on Constitution Day, each September 17, commemorating the September 17, 1787 signing of the Constitution. However, when September 17 falls on a Saturday, Sunday, or holiday, Constitution Day shall be held during the preceding or following week. <sup>44</sup>

18. In grade 7 and all high school courses concerning U.S. history or a combination of U.S. history and American government, students must view a Congressional Medal of Honor film made by the Congressional Medal of Honor Foundation, provided there is no cost for the film. <sup>45</sup>

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<sup>43</sup> 105 ILCS 5/27-21, amended by P.A.s ~~101-227 (adding the roles and contributions of LGBT people in U.S. and Illinois), 101-341 (Illinois history), 101-643 (during a public health emergency, allowing schools to obtain evidence from students remotely that they have comprehensive knowledge of United States history), and 102-411 (adding contributions made to society by Americans of different faith practices) and 103-422 (adding teaching about Native American nations' sovereignty and self-determination) and 105 ILCS 5/27-20.05, added by P.A. 103-422 (adding instruction on Native American experience and history); 23 Ill.Admin.Code §1.420(r). 105 ILCS 5/27-21, amended by P.A.s 102-411 and 103-422, requires the school board to determine the minimum amount of instructional time. The sample policy complies by delegating this responsibility to the superintendent or designee. “[Evidence of having comprehensive knowledge [of United States history], which may be administered remotely” is not clear. The practical reading is that it refers to teachers collecting evidence through remote assessments when students are engaged in a remote learning program during a disaster declaration due to a public health emergency.~~

Note that instruction on Native American nations' sovereignty and self-determination under 105 ILCS 5/27-21, amended by P.A. 103-422, does not specify a delayed implementation date. Consult the board attorney regarding whether a district may delay implementation of such instruction given that the implementation of Native American experience and Native American history in 2024-2025 must include instruction on tribal sovereignty.

Instruction in events of the Native American experience and Native American history must include “the contributions of Native Americans in government and the arts, humanities, and sciences, as well as the contributions of Native Americans to the economic, cultural, social, and political development of their own nations and of the United States.” Additionally, in grades 6 through 12, the instruction must include “the study of the genocide of and discrimination against Native Americans, as well as tribal sovereignty, treaties made between tribal nations and the United States, and the circumstances around forced Native American relocation.” 105 ILCS 5/27-20.05, added by P.A. 103-422. See also f/n 46, below. ISBE is required to make instructional materials related to Native Americans available on its website, but not until 1-1-25. For additional resources, see <https://americanindian.si.edu/nk360> and <https://iste.org/blog/15-resources-for-teaching-native-american-history-and-culture> ~~[www.iste.org/explore/classroom/15-resources-teaching-native-american-history-and-culture](https://iste.org/explore/classroom/15-resources-teaching-native-american-history-and-culture)~~.

105 ILCS 5/27-21, ~~amended by P.A. 101-643~~, does not specify at what grade level districts must cover these topics as part of U.S. history instruction; however, no student may graduate from grade 8 unless the student has received instruction in U.S. history and demonstrated comprehensive knowledge of the subject matter.

For guidance about the requirements of adding the roles and contributions of LGBT people in U.S. and Illinois, see:

1. Inclusive Curriculum Law Frequently Asked Questions (FAQs) at:  
[www.phimc.org/wp-content/uploads/2020/05/Inclusive-Curriculum-FAQs.pdf](http://www.phimc.org/wp-content/uploads/2020/05/Inclusive-Curriculum-FAQs.pdf);
2. Inclusive Curriculum Law Overview at:  
[www.phimc.org/wp-content/uploads/2020/05/Inclusive-Curriculum-One-Pager.pdf](http://www.phimc.org/wp-content/uploads/2020/05/Inclusive-Curriculum-One-Pager.pdf); and
3. Inclusive Curriculum Implementation Guidance (Condensed Edition) at:  
[www.isbe.net/Documents/Support-Students-Implementation-Guidance.pdf](http://www.isbe.net/Documents/Support-Students-Implementation-Guidance.pdf)

<sup>44</sup> Section 111 of Division J of Pub. L. 108-447, the Consolidated Appropriations Act, 2005, 12-8-04; 118 Stat. 2809, 3344-45 (Section 111). Section 111(b) states: “[e]ach educational institution that receives Federal funds for a fiscal year shall hold an educational program on the U.S. Constitution on September 17 of such year for the student served by the educational institution.”

<sup>45</sup> 105 ILCS 5/27-3.5. The Congressional Medal of Honor film is available on ISBE’s website for no cost at: [www.isbe.net/Pages/Medal-of-Honor.aspx](http://www.isbe.net/Pages/Medal-of-Honor.aspx).

19. In all schools, the curriculum includes instruction as determined by the Superintendent or designee on the Holocaust and crimes of genocide, including Nazi atrocities of 1933-1945, [the Native American genocide in North America](#), Armenian Genocide, the Famine-Genocide in Ukraine, and more recent atrocities in Cambodia, Bosnia, Rwanda, and Sudan. <sup>46</sup>
20. In all schools, the curriculum includes instruction as determined by the Superintendent or designee on the history, struggles, and contributions of women. <sup>47</sup>
21. In all schools, the curriculum includes instruction as determined by the Superintendent or designee on Black History, including the history of the pre-enslavement of Black people from 3,000 BCE to AD 1619, the African slave trade, slavery in America, the study of the reasons why Black people came to be enslaved, the vestiges of slavery in this country, the study of the American civil rights renaissance, as well as the struggles and contributions of African-Americans. <sup>48</sup>
22. In all schools offering a secondary agricultural education program, the curriculum includes courses as required by 105 ILCS 5/2-3.80. <sup>49</sup>
23. In all schools, instruction during courses as determined by the Superintendent or designee on disability history, awareness, and the disability rights movement. <sup>50</sup>
24. ~~Beginning in the fall of 2022, i~~In all schools, instruction as determined by the Superintendent or designee on the events of Asian American history, including the history of Asian Americans in Illinois and the Midwest, as well as the contributions of Asian Americans toward advancing civil rights from the 19th century onward, which must include the contributions made by individual Asian Americans in government and the arts, humanities, and sciences, as well as

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<sup>46</sup> 105 ILCS 5/27-20.3, [amended by P.A. 103-422](#). The statute requires the school board to determine the minimum amount of instructional time. The sample policy complies by delegating this responsibility to the superintendent or designee. [Beginning with the 2024-2025 school year, instruction on Native American genocide is also required by 105 ILCS 5/27-20.05, added by P.A. 103-422 in grades 6-12, see f/n 43, above. Note that instruction on Native American genocide under 105 ILCS 5/27-20.3, amended by P.A. 103-422, does not specify a delayed implementation date. Consult the board attorney regarding whether a district may delay implementation of such instruction given that the implementation of Native American experience and Native American history in 2024-2025 must include instruction on Native American genocide. ISBE is not required to make instructional materials on the Native American genocide in North America available on its website until 1-1-25.](#)

<sup>47</sup> 105 ILCS 5/27-20.5. The statute requires the school board to determine the minimum amount of instructional time. The sample policy complies by delegating this responsibility to the superintendent or designee. House Resolution 365 (98th General Assembly, 2013) and Senate Resolution 1073 (98th General Assembly, 2014) both urge all Illinois educators to share with students of an appropriate age the story of *comfort women* when discussing the history of Asia or World War II, or the issue of human trafficking.

<sup>48</sup> 105 ILCS 5/27-20.4, ~~amended by P.A. 101-654~~. The statute requires the school board to determine the minimum amount of instructional time. The sample policy complies by delegating this responsibility to the superintendent or designee. A school may meet this curriculum requirement through an online program or course. Id.

<sup>49</sup> 105 ILCS 5/2-3.80(e) or (f), as applicable.

<sup>50</sup> 105 ILCS 5/27-23.8. The statute requires the school board to determine the minimum amount of instructional time. The sample policy complies by delegating this responsibility to the superintendent or designee. The statute requires that the instruction be founded on the principle that all students, including students with disabilities, have the right to exercise self-determination. It urges districts to request individuals with disabilities to assist with the development and delivery of this instruction and allows instruction to be supplemented by knowledgeable guest speakers.

the contributions of Asian American communities to the economic, cultural, social, and political development of the United States. <sup>51</sup>

25. In kindergarten through grade 8, education must be available to students concerning effective methods of preventing and avoiding traffic injuries related to walking and bicycling. <sup>52 53</sup>

LEGAL REF.: Pub. L. No. 108-447, Section 111 of Division J, Consolidated Appropriations Act of 2005.  
Pub. L. No. 110-385, Title II, 122 stat. 4096 (2008), Protecting Children in the 21st Century Act.  
47 C.F.R. §54.520.  
5 ILCS 465/3 and 465/3a.  
20 ILCS 2605/2605-480.  
105 ILCS 5/2-3.80(e) and (f), 5/10-20.79, 5/10-23.13, 5/27-3, 5/27-3.5, 5/27-5, 5/27-6, 5/27-6.5, 5/27-7, 5/27-12, 5/27-12.1, 5/27-13.1, 5/27-13.2, [5/27-20.05](#), 5/27-20.08, 5/27-20.3, 5/27-20.4, 5/27-20.5, 5/27-20.7, 5/27-20.8, 5/27-21, 5/27-22, 5/27-23.3, 5/27-23.4, 5/27-23.7, 5/27-23.8, 5/27-23.10, 5/27-23.11, 5/27-23.15, 5/27-23.16, 5/27-24.1, and 5/27-24.2.  
105 ILCS 110/3, Comprehensive Health Education Program.  
105 ILCS 435/, Vocational Education Act.  
625 ILCS 5/6-408.5, Ill. Vehicle Code.  
23 Ill.Admin.Code §§1.420, 1.425, 1.430, and 1.440.

CROSS REF.: 4:165 (Awareness and Prevention of Child Sex Abuse and Grooming Behaviors), 6:20 (School Year Calendar and Day), 6:40 (Curriculum Development), 6:70 (Teaching About Religions), 6:235 (Access to Electronic Networks), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior), 7:260 (Exemption from Physical Education)

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<sup>51</sup> 105 ILCS 5/27-20.8, added by P.A. 102-44. *Id.* at (c) states that the regional superintendent of schools [or Intermediate Service Center Executive Director, whichever is appropriate] will monitor districts' compliance with this law during the annual compliance review visits. Districts may meet this law's requirements through online programs or courses. *Id.* at (d). 105 ILCS 5/3-0.01 states any reference to "regional superintendent" includes the chief administrative officer of Intermediate Service Centers established under 105 ILCS 5/2-3.62. [For resources, see www.isbe.net/Pages/ContinueEDResources.aspx.](http://www.isbe.net/Pages/ContinueEDResources.aspx)

<sup>52</sup> 105 ILCS 5/27-23.11 requires districts that maintain any of the grades kindergarten through 8 to adopt a policy. The law is silent about how to educate students on this topic. See [sample exhibit](#) 6:60-API, E2, *Resources for Biking and Walking Safety Education*, for additional information.

<sup>53</sup> A school district may offer a course on hunting safety as part of its curriculum during the school day. 105 ILCS 5/27-23.13, ~~added by P.A. 101-152~~. No grade levels are specified in the statute. Insert "5/27-23.13," after 105 ILCS 5/27-23.11 in the Legal References, and an optional number 26, if the board wants to offer a course on hunting safety as part of its curriculum: In grade(s) [*insert grade level(s)*], a course on hunting safety will be offered during the school day.

## Instruction

### Student Social and Emotional Development <sup>1</sup>

Social and emotional learning (SEL) is defined as the process through which students enhance their ability to integrate thinking, feeling, and behaving to achieve important life tasks. Students competent in SEL are able to recognize and manage their emotions, establish healthy relationships, set positive goals, meet personal and social needs, and make responsible and ethical decisions. <sup>2</sup>

The Superintendent shall incorporate SEL into the District's curriculum and other educational programs consistent with the District's mission and the goals and benchmarks of the Ill. Learning Standards. <sup>3</sup> The Ill. Learning Standards include three goals for students: <sup>4</sup>

1. Develop self-awareness and self-management skills to achieve school and life success.
2. Use social-awareness and interpersonal skills to establish and maintain positive relationships.
3. Demonstrate decision-making skills and responsible behaviors in personal, school, and community contexts.

The incorporation of SEL objectives into the District's curriculum and other educational programs may include but is not limited to: <sup>5</sup>

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<sup>1</sup> State law requires this subject matter be covered by policy, and it required districts to submit it to the Ill. State Board of Education (ISBE) once by 8-31-04. 405 ILCS 49/15(b).

<sup>2</sup> This text paraphrases the definition in the Ill. Children's Mental Health Partnership's 2005 Strategic Plan for Building a Comprehensive Children's Mental Health System in Illinois, pg. 73, Appendix C, starting at pg. 69 at: [www.icmhp.org/wp-content/uploads/2019/10/ICMHP\\_CMH-Strategic\\_Plan.pdf](http://www.icmhp.org/wp-content/uploads/2019/10/ICMHP_CMH-Strategic_Plan.pdf). [www.nashp.org/wp-content/uploads/sites/default/files/abcd/abcd-il.icmhpstrategic20050908.pdf](http://www.nashp.org/wp-content/uploads/sites/default/files/abcd/abcd-il.icmhpstrategic20050908.pdf) The 2022-2027 Illinois Children's Mental Health Plan is available at: [www.icmhp.org/our-work/childrens-mental-health-plan/](http://www.icmhp.org/our-work/childrens-mental-health-plan/).

<sup>3</sup> Required by the Children's Mental Health Act, 405 ILCS 49/, amended by P.A. 102-899, ~~eff. 1-1-23~~. ISBE incorporated social and emotional development standards into the Ill. Learning Standards. For more information see: [www.isbe.net/sel](http://www.isbe.net/sel). School social workers may implement a continuum of social and emotional education programs and services in accordance with students' needs. 405 ILCS 49/15(b).

105 ILCS 5/2-3.147, added by P.A. 95-558 and repealed by P.A. 99-30, created the Ensuring Success in School Task Force. Supervised by ISBE, this task force developed policies, procedures, and protocols for school boards to adopt to address the education and related needs of students who are parents, expectant parents, or victims of domestic or sexual violence; the goal is to encourage these students to stay in school, stay safe while in school, and successfully complete their education. School boards and superintendents may want to create their own study group to prepare for implementing of the task force's policies, procedures, and protocols. A report of the task force's findings was made to the General Assembly and is available here: [www.isbe.net/Documents/ess-task-force-final-report0610.pdf](http://www.isbe.net/Documents/ess-task-force-final-report0610.pdf). 105 ILCS 5/26A-15, added by P.A. 102-466 and scheduled to be repealed on 12-1-25, created a subsequent Ensuring Success in School Task Force supervised by ISBE, also focused on the education and related needs of students who are parents, expectant parents, or victims of domestic or sexual violence. The subsequent task force is to: (1) draft and publish model policies and intergovernmental agreements for inter-district transfers, (2) draft and publish model complaint resolution procedures, and (3) identify current mandatory and new staff trainings needed.

<sup>4</sup> The goals, along with their benchmarks, performance descriptors and indicators are available at the [first](#) link in f/n 3, above.

<sup>5</sup> The objectives are a matter of local school board discretion. A board may replace the sample objectives with its own local objectives. This sample policy lists the ISBE's SEL goals found on ISBE's website cited in f/n 3, above.



1. Classroom and school-wide programming to foster a safe, supportive learning environment where students feel respected and valued. This may include incorporating scientifically based, age-and-culturally appropriate classroom instruction, District-wide, and school-wide strategies that teach SEL skills, promote optimal mental health, and prevent risk behaviors for all students.<sup>6</sup>
2. Staff development and training to promote students' SEL development. This may include providing all personnel with age-appropriate academic and SEL and how to promote it.<sup>7</sup>
3. Parent/Guardian and family involvement to promote students' SEL development. This may include providing parents/guardians and families with learning opportunities related to the importance of their children's optimal SEL development and ways to enhance it.<sup>8</sup>
4. Community partnerships to promote students' SEL development. This may include establishing partnerships with diverse community agencies and organizations to assure a coordinated approach to addressing children's mental health and SEL development.
5. Early identification and intervention to enhance students' school readiness, academic success, and use of good citizenship skills. This may include development of a system and procedures for periodic and universal screening, assessment, and early intervention for students who have significant risk factors for social, emotional, or mental health conditions that impact learning.<sup>9</sup>
6. Treatment to prevent or minimize mental health conditions in students. This may include building and strengthening referral and follow-up procedures for providing effective clinical services for students with social, emotional, and mental health conditions<sup>10</sup> that impact learning. This may include student and family support services, school-based behavioral health services, and school-community linked services and supports.
7. Assessment and accountability for teaching SEL skills to all students. This may include implementation of a process to assess and report baseline information and ongoing progress about school climate, students' social and emotional development, and academic performance.<sup>11</sup>

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<sup>6</sup> 20 ILCS 1705/76, ~~added by P.A. 101-45~~, requires the Ill. Dept. of ~~Public Health~~ Human Services (IDHS) to create and maintain an online *Mental Health Database and Resource* page on its website with mental health resources to: (1) assist school social workers, school counselors, parents, teachers, and school support personnel with the goal of connecting them with mental health resources related to bullying and school shootings; and (2) encourage information sharing among educational administrators, school security personnel, and school resource officers. See the database at: [www.dhs.state.il.us/page.aspx?item=118331](http://www.dhs.state.il.us/page.aspx?item=118331).

~~20 ILCS 1705/76.2, added by P.A. 103-222, eff. 1-1-24, requires IDHS to partner with ISBE to provide technical assistance for the provision of mental health care for students during school days.~~

<sup>7</sup> See SEL resources to support instruction of the Ill. Learning Standards at: <https://ilclassroomtech.weebly.com/social-emotional-learning.html>.

<sup>8</sup> The Ill. Children's Mental Health Partnership provides ~~family~~ resources for youth, caregivers, and professionals at: [www.icmhp.org/resources/www.icmhp.org/resources/media-library/](http://www.icmhp.org/resources/www.icmhp.org/resources/media-library/).

~~20 ILCS 1705/11.4, added by P.A. 103-546, requires IDHS to create and maintain an online Care Portal to serve as a central resource for families with children who have significant and complex behavioral health needs. IDHS, in coordination with various state agencies, is to develop training and communication for school districts, hospital social workers, and system partners to demonstrate how individuals can assist a family seeking youth behavioral health services.~~

<sup>9</sup> Information about Early Childhood Mental Health Consultation is available at: [www.iecmhc.org/](http://www.iecmhc.org/).

<sup>10</sup> 305 ILCS 5/5-5.23(g), ~~added by P.A. 101-461~~, created the *Family Support Program* (FSP) in the Ill. Dept. of Healthcare and Family Services. FSP is a restructure of the former Individual Care Grant program. Its purpose is to enable early treatment of youth, emerging adults, and transition-age adults with a serious mental illness or serious emotional disturbance. Eligibility criterion for FSPs are established at 89 Ill. Adm. Code Part 139.

<sup>11</sup> For information on this objective, see ISBE's Comprehensive System of Learning Supports at:

LEGAL REF.: Children’s Mental Health Act, 405 ILCS 49/.

CROSS REF.: 1:30 (School District Philosophy), 6:10 (Educational Philosophy and Objectives), 6:40 (Curriculum Development), 6:60 (Curriculum Content), 6:270 (Guidance and Counseling Program), 7:100 (Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:250 (Student Support Services)

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[www.isbe.net/Pages/Learning-Supports.aspx](http://www.isbe.net/Pages/Learning-Supports.aspx).

Information about school climate is available from ISBE at: [www.isbe.net/Pages/School-Climate.aspx](http://www.isbe.net/Pages/School-Climate.aspx).

## Instruction

### Library Media Program <sup>1</sup>

The Superintendent or designee shall manage the District's library media program to comply with (1) State law and Ill. State Board of Education (ISBE) rule and (2) the following standards:

1. The program includes an organized collection of resources available to students and staff to supplement classroom instruction, foster reading for pleasure, enhance information literacy, and support research, as appropriate to students of all abilities in the grade levels served.
2. Financial resources for the program's resources and supplies are allocated to meet students' needs.

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<sup>1</sup> ISBE rule controls some aspects of this policy's content; however, districts are not required to adopt a policy on any subject matter covered in it. Standards #1-4 restate requirements in 23 Ill.Admin.Code §1.420(o). Standard #2 implements the rule's requirement that each "district's annual budget shall include an identifiable allocation for resources and supplies for the program." However, the rule allows a unit district serving fewer than 400 students or an elementary or high school district serving fewer than 200 students to forego the allocation requirement; thus, they may use the following alternative to standard #2: "Resources are sufficient to meet students' needs." Standards #5 or an alternative written statement prohibiting the practice of banning books is required for a district to be eligible for State library grants (e.g., School Library Grants under 75 ILCS 10/8.4). 75 ILCS 10/8.7, added by P.A. 103-100, eff. 1-1-24. In order to be eligible for a School Library Grant, a district must also be a member in good standing of a regional multitype library system (e.g., Illinois Heartland Library System or Reaching Across Illinois Library System) or have applied for membership and been approved for membership in such a system within specific timeframes. 23 Ill.Admin.Code §3035.120. #6, and #7 may be customized or deleted, and other standards may be added. For optional Standard #7, ~~†~~The American Library Association's (ALA) *Library Bill of Rights* (available at <https://www.ala.org/advocacy/intfreedom/librarybill>) includes the following:

1. Books and other library resources should be provided for the interest, information, and enlightenment of all people of the community the library serves. Materials should not be excluded because of the origin, background, or views of those contributing to their creation.
2. Libraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval.
3. Libraries should challenge censorship in the fulfillment of their responsibility to provide information and enlightenment.
4. Libraries should cooperate with all persons and groups concerned with resisting abridgment of free expression and free access to ideas.
5. A person's right to use a library should not be denied or abridged because of origin, age, background, or views.
6. Libraries which make exhibit spaces and meeting rooms available to the public they serve should make such facilities available on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use.
7. All people, regardless of origin, age, background, or views, possess a right to privacy and confidentiality in their library use.
8. Libraries should advocate for, educate about, and protect people's privacy, safeguarding all library use data, including personally identifiable information.

If the board prefers the alternative language permitted by 75 ILCS 10/8.7, added by P.A. 103-100, eff. 1-1-24, for Standard #5, substitute with the following:

The practice of banning books or other materials within the District's library media program is prohibited. Standards #6 and #7 may be customized or deleted, and other standards may be added.

~~See <https://www.ala.org/advocacy/intfreedom/librarybill> and its interpretation for school libraries at <https://www.ala.org/advocacy/intfreedom/librarybill/interpretations/accessresources>. The ALA's interpretation of its *Library Bill of Rights* acknowledges that the educational level and program of the school necessarily shape the resources and services of a school library, but it states that the principles of the *Library Bill of Rights* apply equally to all libraries, including school libraries.~~

3. Students in all grades served have equitable access to library media resources.
4. The advice of an individual who is qualified according to ISBE rule is sought regarding the overall direction of the program, including the selection and organization of materials, provision of instruction in information and technology literacy, and structuring the work of library paraprofessionals.
- ~~4.5. The program adheres to the principles of the American Library Association's *Library Bill of Rights*, which indicate that materials should not be proscribed or removed because of partisan or doctrinal disapproval.~~
- ~~5.6. Staff members are invited to recommend additions to the collection.~~
- ~~6.7. Students may freely select resource center materials as well as receive guided selection of materials appropriate to specific, planned learning experiences.~~
- ~~7. The program is guided by the principles of the American Library Association's *Library Bill of Rights* and its interpretation for school libraries.~~

Parents/guardians, employees, and community members who believe that library media program resources violate rights guaranteed by any law or Board policy may file a complaint using Board policy 2:260, *Uniform Grievance Procedure*.<sup>2</sup>

The Superintendent or designee shall establish criteria consistent with this policy for the review of objections. Parents/guardians, employees, and community members with suggestions or complaints about library media program resources may complete a *Library Media Resource Objection Form*. The Superintendent or designee shall inform the parent/guardian, employee, or community member, as applicable, of the District's decision.<sup>3</sup>

LEGAL REF.: [75 ILCS 10/8.7.](#)  
23 Ill.Admin.Code §1.420(o).

CROSS REF.: [2:260 \(Uniform Grievance Procedure\)](#), 6:60 (Curriculum Content), 6:170 (Title I Programs), 6:210 (Instructional Materials), [6:260 \(Complaints About Curriculum, Instructional Materials, and Programs\)](#)

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<sup>2</sup> Limiting the scope of complainants in this policy to parents/guardians, employees, and community members aligns with sample policy 2:260, *Uniform Grievance Procedure*.

<sup>3</sup> The issue of school library book removals is an unsettled area of law that is often litigated; consult the board attorney for advice regarding challenges to school library books or other library resources. In the only U.S. Supreme Court case to address this issue, *Island Trees Union Free Sch. Dist. No. 26 v. Pico*, 457 U.S. 852~~3~~ (1982), the Court issued a plurality (not a majority) opinion finding a board could not remove books it had characterized as "anti-American, anti-Christian, anti-Semitic, and just plain filthy," if the removal was motivated by partisan or political reasons; to do so would violate students' Constitutional right to receive information and ideas. Four dissenting justices, however, disagreed that students have a right to receive information and ideas under the First Amendment and would have deferred to the judgment of the local school board.

## Instruction

### Guidance and Counseling Program <sup>1</sup>

The School District provides a guidance and counseling program for students.<sup>2</sup> The Superintendent or designee shall direct the District's guidance and counseling program. School counseling services, as described by State law, may be performed by a qualified guidance specialist or any certificated staff member.<sup>3</sup>

*[For Elementary and Unit Districts]*

Each staff member is responsible for effectively guiding students under his/her supervision in order to provide early identification of intellectual, emotional, social, or physical needs, diagnosis of any learning disabilities, and development of educational potential. The District's counselors shall offer counseling to those students who require additional assistance.

*[For High School and Unit Districts]*

The guidance program will assist students to identify career options consistent with their abilities, interests, and personal values. Students shall be encouraged to seek the help of counselors to develop specific curriculum goals that conform to the student's career objectives. High school juniors and seniors will have the opportunity to receive career-oriented information. Representatives from colleges and universities, occupational training institutions and career-oriented recruiters, including the military,

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<sup>1</sup> State or federal law controls this policy's content.

<sup>2</sup> School boards may employ counselors 105 ILCS 5/10-22.24a, amended by P.A. 102-894. 105 ILCS 5/10-22.24b, amended by P.A. ~~s 101-290 and 102-876, eff. 1-1-23~~, provides an extensive but non-exhaustive list of school counseling services, including counseling services for students in need of special education services or who have a federal Section 504 plan and discussion of all post-secondary education options, including four-year colleges or universities, community colleges, and vocational schools.

All districts must conduct a comprehensive needs assessment to determine the scope of pupil needs in the areas of guidance and counseling, psychological, social work, and health. 23 Ill.Admin.Code §1.420(q).

The Children's Mental Health Act requires districts to develop protocols for responding to students with social, emotional, or mental health needs that impact learning. 405 ILCS 49/, amended by P.A. 102-899, ~~eff. 1-1-23~~. ~~P.A. 95-558 created the Ensuring Success in School Task Force that developed policies, procedures, and protocols for school boards to adopt for the purpose of addressing the education and related needs of students who are parents, expectant parents, or victims of domestic or sexual violence to ensure their ability to stay in school, stay safe while in school, and successfully complete their education.~~ See f/n 3 in sample policy 6:65, *Student Social and Emotional Development*, for further information. See [sample](#) policy 7:250, *Student Support Services*, and [sample](#) administrative procedure 7:250-AP2, *Protocol for Responding to Students with Social, Emotional, or Mental Health Needs*.

<sup>3</sup> Optional. 105 ILCS 5/10-22.24b, amended by P.A. ~~s 101-290 and 102-876, eff. 1-1-23~~, provides that any qualified professional, including other endorsed school support personnel, may provide school counseling services. The following optional sentence recognizes the importance of interventions; however, it creates duties that are not present in law. This is a classic "who, gets what, for how much" issue.

The counseling program will assist students with interventions related to academic, social and/or personal issues. Students shall be encouraged to seek academic, social, and/or personal assistance.

may be given access to the school campus in order to provide students and parents/guardians with information. <sup>4</sup>

LEGAL REF.: 105 ILCS 5/10-22.24a and 5/10-22.24b.  
23 Ill.Admin.Code §1.420(q).

CROSS REF.: 6:50 (School Wellness), 6:65 (Student Social and Emotional Development), 6:110 (Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program), 6:120 (Education of Children with Disabilities), 6:130 (Program for the Gifted), 7:100 (Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students), 7:250 (Student Support Services), 7:290 (Suicide and Depression Awareness and Prevention)

ADMIN. PROC.: 7:340-AP1 (School Student Records), 7:340-AP1, E1 (Notice to Parents/Guardians and Students of Their Rights Concerning a Student's School Records), 7:340-AP1, E3 (Letter to Parents and Eligible Students Concerning Military Recruiters and Postsecondary Institutions Receiving Student Directory Information)

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<sup>4</sup> A district must provide military recruiters and state public institutions of higher education access to students if it has provided such access to persons or groups who tell students about educational or occupational opportunities. 105 ILCS 5/10-20.5a, amended by P.A. 103-204, eff. 1-1-24. By 1-1-24, districts must make student directory information electronically accessible through a secure centralized data system for official recruiting representatives of the armed forces and for State public institutions of higher education. Id. The Ill. State Board of Education issued a *Military Recruitment Access Reminder memo*, available at: [www.isbe.net/Documents/Military\\_Access\\_Reminder.pdf](http://www.isbe.net/Documents/Military_Access_Reminder.pdf).

Such access must be consistent with the federal Family Educational Rights and Privacy Act (20 U.S.C. §1232g). Id. Another Federal law requires a secondary school to grant military recruiters and institutions of high learning, upon their request, access to secondary school students' names, addresses, and telephone numbers, unless the parents/guardians request that the information not be disclosed without prior written consent. 20 U.S.C. §7908. See also sample administrative procedure 7:340-AP1, School Student Records, and sample exhibit 7:340-AP1, E1, Notice to Parents/Guardians and Students of Their Rights Concerning a Student's School Records.

## Instruction

### Grading and Promotion <sup>1</sup>

The Superintendent or designee shall establish a system of grading and reporting academic achievement to students and their parents/guardians.<sup>2</sup> The system shall also determine when promotion and graduation requirements are met. The decision to promote a student to the next grade level shall be based on successful completion of the curriculum, attendance, and performance on the standardized tests required by the Ill. State Board of Education (ISBE) and/or other assessments.<sup>3</sup> A student shall not be promoted based upon age or any other social reason not related to academic performance.<sup>4</sup> The administration shall determine remedial assistance for a student who is not promoted.<sup>5</sup>

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<sup>1</sup> State law requires districts to have a school board policy containing the reasons for which a grade may be changed and prohibiting social promotion. 105 ILCS 5/10-20.9a. State law controls this policy's content.

If a district uses weighted grades for classes by degree of difficulty, it must be reflected in the affected students' class ranking and permanent records. 105 ILCS 5/27-27.

<sup>2</sup> Absent a court order to the contrary, upon the request of either parent of a student whose parents are divorced, copies of report cards, along with other notices and records, must be furnished to both parents by the district. [If a student is in the legal custody of the Ill. Dept. of Children and Family Services \(DCFS\), copies must be furnished to the DCFS Office of Education and Transition Services.](#) 105 ILCS 5/10-21.8, [amended by P.A. 102-199.](#)

<sup>3</sup> 105 ILCS 5/10-20.9a. Each board may determine its own promotion criteria and augment the statute's criteria. 105 ILCS 5/10-20.9a(c) and (d), added by P.A. 102-727, and inoperative "on and after three years" from 5-6-22, prohibits public high schools from withholding a student's grades, transcripts, or diploma because of an unpaid balance on the student's school account. Given potential different interpretations, the exact date on which this law expires is unclear; consult the board attorney for guidance on this issue. See also 105 ILCS 5/28-19.2, which prohibits student punishment of any kind, including the lowering of grades, if a parent/guardian is unable to pay school fees.

105 ILCS 5/2-3.64 contained the State assessment program until it was repealed by P.A. 98-972.

[105 ILCS 5/2-3.25a, amended by P.A. 103-175, requires ISBE to "develop standards for student performance, such as proficiency levels on State assessments."](#) 105 ILCS 5/2-3.64a-5(b) requires ISBE to "establish the academic standards that are to be applicable to students who are subject to State assessments." It contains the schedule for assessing students by calendar year and grade. ISBE selects standardized tests for the State assessment and accountability measure. In House Joint Resolution 54 (2015), members of the Ill. House and Senate encouraged school districts to not use results of the *Partnership for Assessment of Readiness for College and Careers* (PARCC) test for the 2014-2015 through the 2017-2018 school years "as a determining factor for making decisions about a student's educational opportunities, the evaluation of educators, and the allocation of resources based on educational achievement on this assessment." Starting in 2019, PARCC was no longer used by ISBE.

105 ILCS 5/2-3.64a-5(c), [amended by P.A. 101-643](#), requires that the assessment administered by ISBE for the purpose of student application to or admissions consideration by institutions of higher education be administered on a school day during regular student attendance hours. Assessments are not required if ISBE receives a waiver from the administration of assessments from the U.S. Dept. of Education. *Id.*

105 ILCS 5/2-3.64a-5(e) no longer requires that the scores attained by a student on an assessment that includes a college and career readiness determination be entered on the student's transcript; however, the scores must still be placed in the student's permanent record. See also 23 Ill.Admin.Code §375.10.

<sup>4</sup> 105 ILCS 5/10-20.9a(b).

<sup>5</sup> *Id.*

Every teacher shall maintain an evaluation record for each student in the teacher's classroom. A District administrator cannot change the final grade assigned by the teacher without notifying the teacher.<sup>6</sup> Reasons for changing a student's final grade include:

- A miscalculation of test scores,
- A technical error in assigning a particular grade or score,
- The teacher agrees to allow the student to do extra work that may impact the grade,
- An inappropriate grading system used to determine the grade, or
- An inappropriate grade based on an appropriate grading system.

Should a grade change be made, the administrator making the change must sign the changed record.

LEGAL REF.: 105 ILCS 5/2-3.64a-5, 5/10-20.9a, 5/10-21.8, and 5/27-27.

CROSS REF.: 6:110 (Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program), 6:300 (Graduation Requirements), 6:340 (Student Testing and Assessment Program), 7:50 (School Admissions and Student Transfers To and From Non-District Schools)

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<sup>6</sup> The specific reasons and procedure for changing a grade are at the local board's discretion; however, State law provides that no grade may be changed without notification to the teacher concerning the nature and reason for the change. 105 ILCS 5/10-20.9a(a). The person making the change must assume all responsibility and must initial the change. Id.



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## Students

### School Admissions and Student Transfers To and From Non-District Schools <sup>1</sup>

Age [Elementary or Unit Districts only]

To be eligible for admission, a child must be five years old on or before September 1 of that school term.<sup>2</sup> A child entering first grade must be six years of age on or before September 1 of that school term.<sup>3</sup> Based upon an assessment of a child's readiness to attend school, the District may permit him or her to attend school prior to these dates.<sup>4</sup> A child will also be allowed to attend first grade based upon an assessment of his or her readiness if he or she attended a non-public preschool, continued his or her education at that school through kindergarten, was taught in kindergarten by an appropriately licensed teacher, and will be six years old on or before December 31.<sup>5</sup> A child with exceptional needs who qualifies for special education services is eligible for admission at three years of age.<sup>6</sup> Early

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<sup>1</sup> State law requires some of the subject matter contained in this sample policy to be covered by policy and controls this policy's content. Boards must adopt a policy on school admissions (105 ILCS 5/10-21.2) and restricting a student from transferring from another school while under a suspension or expulsion from that school (105 ILCS 5/10-22.6). A *registration guidance document*, updated annually, is available from the Ill. State Board of Education (ISBE) at: [www.isbe.net/Documents/guidance\\_reg.pdf](http://www.isbe.net/Documents/guidance_reg.pdf).

<sup>2</sup> 105 ILCS 5/10-20.12. The district may, however, establish a kindergarten for children between the ages of 4 and 6 years old. 105 ILCS ~~5/10-20.19a and~~ 5/10-22.18. Any child between the ages of 7 and 17 (unless the child has already graduated from high school) must attend public or private school, with certain exceptions allowed for physical and mental disability, lawful employment, or other reasons as specified by statute. 105 ILCS 5/26-1. The phrase "a child between the ages of 7 and 17" is liberally construed to fully carry out the true intent and meaning of the General Assembly (5 ILCS 70/1.01), which is to ensure that students graduate from high school (105 ILCS 5/26-1). Therefore, "the ages of 7-17" means a child is 17 until his or her 18th birthday.

<sup>3</sup> Optional sentence.

<sup>4</sup> 105 ILCS 5/10-20.12.

<sup>5</sup> Id. Delete the first four sentences in this paragraph if the district operates a year-round school and use the following alternative:

To be eligible for admission, a child must be at least five years old within 30 days after the commencement of that school term. Based upon an assessment of the child's readiness to attend school, the District may permit him or her to attend school prior to this date. A child may also attend first grade based upon an assessment of his or her readiness if he or she attended a non-public preschool and continued his or her education at that school through kindergarten, was taught in kindergarten by an appropriately licensed teacher, and will attain age six within four months after the commencement of the term.

<sup>6</sup> 105 ILCS 5/14-1.02 and 5/14-1.03a. An ISBE rule states: "Each school district shall be responsible for actively seeking out and identifying all children from birth through age 21 within the district (and those parentally-placed private school children for whom the district is responsible under 34 C.F.R. §300.131) who may be eligible for special education and related services." 23 Ill.Admin.Code §226.100. Note that after a child is determined to be eligible for special education services, the child must be placed in the appropriate program no later than the beginning of the next school semester. 105 ILCS 5/14-8.02, amended by P.A. 102-199.

entrance to kindergarten or first grade may also be available through Board policy 6:135, *Accelerated Placement Program*.<sup>7 8</sup>

### Admission Procedure

All students must register for school each year on the dates and at the place designated by the Superintendent. Parents/guardians of students enrolling in the District for the first time must present:

1. A certified copy of the student's birth certificate. If a birth certificate is not presented, the Superintendent or designee shall notify in writing the person enrolling the student that within 30 days he or she must provide a certified copy of the student's birth certificate. A student will be enrolled without a birth certificate.<sup>9</sup> When a certified copy of the birth certificate is presented, the school shall promptly make a copy for its records, place the copy in the student's permanent<sup>10</sup> record, and return the certified copy to the person enrolling the child. If a person enrolling a student fails to provide a certified copy of the student's birth certificate, the Superintendent or designee shall immediately notify the local law enforcement agency, and shall also notify the person enrolling the student in writing that, unless he or she complies within ten days, the case will be referred to the local law enforcement authority for investigation. If compliance is not obtained within that ten-day period, the Superintendent or designee shall so refer the case. The Superintendent or designee shall immediately report to the local law enforcement authority any material received pursuant to this paragraph that appears inaccurate or suspicious in form or content.<sup>11</sup>

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<sup>7</sup> 105 ILCS 5/14A-17, Accelerated Placement Act (APA). For high school districts, delete this sentence and the cross reference to 6:135, *Accelerated Placement Program*. See [sample policy 6:135, Accelerated Placement Program](#), and [sample administrative procedure 6:135-AP, Accelerated Placement Program Procedures](#), for further detail.

Attorneys disagree whether the APA conflicts with 105 ILCS 5/10-20.12 (*School year – School age*). See f/n 4 in sample policy 6:135, *Accelerated Placement Program* for a discussion about reconciling the APA and 105 ILCS 5/10-20.12. **Consult the board attorney for guidance.**

<sup>8</sup> Districts should consider implementing specific and objective criteria for early admissions and address such issues as who pays the costs for assessments, etc. Using this exception defeats the age requirement rules because it only relies upon a child's readiness, regardless of his or her age.

<sup>9</sup> Presenting a certified copy of a student's birth certificate is a missing children's law enforcement issue **that may not be used for denying enrollment**. See **Guidance Documents** subhead in [sample administrative procedure 7:50-AP, School Admissions and Student Transfers To and From Non-District Schools](#), for more information about enrollment and residency issues. Consult the board attorney if a student cannot produce a certified copy of his or her birth certificate and wishes to provide a passport, visa, or other governmental documentation of identity. To balance the tension between the missing children's laws reporting requirements and *Plyler v. Doe* (457 U.S. 202 (1982)), many attorneys advise not to report a student's failure to produce a birth certificate; however always consult the board attorney for assistance based upon the specific facts of the enrollment situation (see f/n 11 below).

<sup>10</sup> 23 Ill.Admin.Code §375.10 states that the *student permanent record* shall include basic identifying information, including the student's name, birth date and place, and gender, and evidence required under 325 ILCS 50/5(b)(1).

<sup>11</sup> Two almost identical laws govern this requirement: Missing Children Records Act (325 ILCS 50/) and Missing Children Registration Law (325 ILCS 55/). We reconciled their differences as much as possible but chiefly used the language from the Registration Law because it has the clearest explanation. The statutory enforcement requirements, as nonsensical as they may seem, are quoted in the policy. **Important:** Schools cannot deny admission based upon immigration (illegal) status alone. Note that singling out foreign-looking students for visa requests is probably illegal discrimination. See *Plyler v. Doe*. See also f/n 18 below.



2. Proof of residence, as required by Board policy 7:60, *Residence*.
3. Proof of disease immunization or detection and the required physical examination, as required by State law and Board policy 7:100, *Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students*.<sup>12</sup>

The individual enrolling a student shall be given the opportunity to voluntarily state whether the student has a parent or guardian who is a member of a branch of the U.S. Armed Forces and who is either deployed to active duty or expects to be deployed to active duty during the school year.<sup>13</sup> Students who are children of active duty military personnel transferring will be allowed to enter: (a) the same grade level in which they studied at the school from which they transferred, if the transfer occurs during the District's school year, or (b) the grade level following the last grade completed.<sup>14</sup>

#### Homeless Children

Any homeless child shall be immediately admitted, even if the child or child's parent/guardian is unable to produce records normally required for enrollment.<sup>15</sup> Board policy 6:140, *Education of Homeless Children*, and its implementing administrative procedure, govern the enrollment of homeless children.

#### Foster Care Students

The Superintendent will appoint at least one employee to act as a liaison to facilitate the enrollment and transfer of records of students in the legal custody of the Ill. Dept. of Children and Family Services (DCFS) when enrolling in or changing schools. The District's liaison ensures that DCFS' Office of

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According to the Ill. State Police, a certified copy of the student's birth certificate is the only acceptable proof of the child's identity and age. 20 Ill.Admin.Code §1290.60(a). For more discussion about acceptable proof of identity, see f/n 1 in [sample administrative procedure 7:50-AP, School Admissions and Student Transfers To and From Non-District Schools](#). The Missing Children's Records Act requires schools to make prompt copies of these certified copies. 325 ILCS 50/5(b)(1). Once made, schools need not request another certified copy with respect to that child for any other year in which the child is enrolled in that school or other entity. *Id.* While the Act does not mandate where the copy should be kept, it is appropriate for placement in the student's ~~temporary~~ permanent record. See 23 Ill.Admin.Code §375.10 and f/n 10, above. The school person who receives the copy of the certified birth certificate should initial and date the document. That way, if there is a question or an investigation (which can happen even years after enrollment) there will not be an issue as to who received the document and the date it was processed.

A district must also *flag* a student's record on notification by the State police of the student's disappearance and report to the State police any request for a *flagged* student record. 325 ILCS 50/3, 50/5.

<sup>12</sup> Each school must maintain records for each student that reflect compliance with the examinations and immunizations required by 105 ILCS 5/27-8.1 and 23 Ill.Admin.Code §1.530(a). A Tuberculosis skin test is required if the student lives in an area designated by the Ill. Dept. of Public Health as having a high incidence of Tuberculosis.

<sup>13</sup> This paragraph is optional in the policy; it reflects the requirements of State and federal law. P.A. 99-30 repealed the Military Compact Act at 105 ILCS 5/22-65 because of the Educational Opportunity for Military Children Act (EOMCA, 105 ILCS 70/); this exact language is not contained in the recoded EOMCA.

<sup>14</sup> Optional. The EOMCA further details enrollment and entrance requirements for children of active military personnel. 105 ILCS 70/33. After enrollment, the law allows a district to perform evaluations to ensure appropriate placement of the student. Course, program, graduation, extracurricular(s), and other placement options for this student population are further discussed in [sample administrative procedure 7:50-AP, School Admissions and Student Transfers To and From Non-District Schools](#).

<sup>15</sup> Required by Education for Homeless Children Act (105 ILCS 45/) and the McKinney-Vento Homeless Assistance Act (42 U.S.C. §11431 *et seq.*). See §11432(g)(3)(C)(i).

Education and Transition Services receives all written notices and records pertaining to students in the legal custody of DCFS as required by State law. <sup>16</sup>

### Student Transfers To and From Non-District Schools <sup>17</sup>

A student may transfer into or out of the District according to State law and procedures developed by the Superintendent or designee. A student seeking to transfer into the District must serve the entire term

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<sup>16</sup> Required by 105 ILCS 5/10-20.59, amended by P.A. 102-199. These liaisons must be licensed under Article 21B of the School Code. 105 ILCS 5/10-20.59, amended by P.A. 102-199, directs how employees are prioritized for liaison appointment. Liaisons are “encouraged to build capacity and infrastructure within their school district to support students in the legal custody of the Department of Children and Family Services.” Schools are required to give DCFS liaisons certain notices, records, and meeting invitations. See 105 ILCS 5/10-20.77, added by P.A. 102-199 (notice and invitation to attend parent-teacher conferences and other meetings); 105 ILCS 5/10-21.8, amended by P.A. 102-199 (copies of correspondence and reports upon request of DCFS); 105 ILCS 5/13B-60.10 (notice and invitation to attend alternative learning opportunities program conference); 105 ILCS 5/14-8.02, amended by P.A. 102-199 (notices related to special education); 105 ILCS 10/, amended by P.A. 102-199 (student records). See [sample administrative procedure 7:340-AP1, School Student Records](#), for more information regarding DCFS access to the student records of children in its legal custody. The law does not specifically require that a district’s DCFS liaison perform these duties; this policy assigns them to the liaison because they logically fit within the responsibilities outlined in 105 ILCS 5/10-20.59, which may include:

1. Streamlining the enrollment process for students in foster care;
2. Implementing student data tracking and monitoring mechanisms;
3. Ensuring that students in DCFS custody receive all school nutrition and meal programs available;
4. Coordinating student withdrawal from a school, record transfers, and credit recovery;
5. Becoming experts on the foster care system and State laws and policies in place that support students in DCFS custody;
6. Coordinating with child welfare partners;
7. Providing foster care-related information and training to the district;
8. Working with DCFS to help students maintain their school placement, if appropriate;
9. Reviewing student schedules to ensure students are on track to graduate;
10. Encouraging a successful transition into adulthood and post-secondary opportunities;
11. Encouraging involvement in extracurricular activities; and
12. Knowing what support is available within the district and community for students in DCFS custody.

<sup>17</sup> 105 ILCS 5/2-3.13a requires each transferor (original) school to keep documentation of transfers in the student’s record. It also requires “notification [by the transferee (recipient) school] of the transfer on or before July 31 following the school year during which the student withdraws from the transferor school or school district or the student shall be counted in the calculation of the transferor school’s or school district’s annual student dropout rate.” ISBE rule, 23 Ill.Admin.Code §375.75(e), is consistent with this requirement. The rule also requires the transferring school or district to maintain any documentation of the student’s transfer, including records indicating the school or school district to which the student transferred, in that student’s temporary record.

Out-of-state transfer students, including children of military personnel, may use unofficial transcripts for admission to a school until official transcripts are obtained from the student’s last school district. 105 ILCS 10/8.1 and 70/32. See also [sample administrative procedure 7:50-AP, School Admissions and Student Transfers To and From Non-District Schools](#).

A board has two basic options for students transferring into the district who are serving a suspension or expulsion. Under option one, it may comply with the minimum requirements of 105 ILCS 5/2-3.13a by refusing to allow a student transferring from any public school to attend classes until the period of any suspension or expulsion has expired when the penalty was for: (1) knowingly possessing in a school building or on school grounds a weapon as defined in the Gun Free Schools Act; (2) knowingly possessing, selling, or delivering in a school building or on school grounds a controlled substance or cannabis; or (3) battering a staff member of the school. Under option two, a board may require a student who was suspended or expelled for any reason from any public or private school in this or any other state to complete the entire term of the suspension or expulsion before being admitted to the school district. The sample policy uses the second, more simple, more comprehensive alternative.

of any suspension or expulsion, imposed for any reason by any public or private school, in this or any other state, before being admitted into the School District.

Foreign Students [High School or Unit Districts only] **18**

The District accepts foreign exchange students with a J-1 visa and who reside within the District as participants in an exchange program sponsored by organizations screened by administration. Exchange students on a J-1 visa are not required to pay tuition. **19**

Privately sponsored exchange students on an F-1 visa may be enrolled if an adult resident of the District has temporary guardianship, and the student lives in the home of that guardian. Exchange students on

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A board may adopt a policy providing that if a student is suspended or expelled for any reason from any school, anywhere, the student must complete the suspension's or expulsion's entire term in an alternative school program under Article 13A ([105 ILCS 5/13A, amended by P.A. 103-473](#)) or an alternative learning opportunities program under Article 13B ([105 ILCS 5/13B](#)) before being admitted into the school district if there is no threat to the safety of students or staff in the alternative program. 105 ILCS 5/2-3.13a and 5/10-22.6(g). If a board wants to provide for this alternative, it may add the following to either of the above options:

The Superintendent is authorized to allow a student who was suspended or expelled from any public or private school to be placed in an alternative school program established under Article 13A of the School Code or an alternative learning opportunities program established under Article 13B of the School Code for the remainder of the suspension or expulsion.

**18** Generally, a citizen of a foreign country who wishes to enter the U.S. must first obtain either: (1) a nonimmigrant visa (for temporary stay for tourism, medical treatment, business, temporary work, or study), or (2) an immigrant visa for permanent residence. Common visas presented by foreign students are:

1. J-1 nonimmigrant visas for participants in educational and cultural exchange programs designated by the U.S. Dept. of State (DOS), Exchange Visitor Program, and Designation Staff. These students are enrolled provided they otherwise qualify for admission. For information about J-1 visas and the Exchange Visitor Program, see [j1visa.state.gov/programs](#).
2. F-1 nonimmigrant student visa. F-1 visas are not issued for attendance at an elementary or middle school (K-8). Before obtaining an F-1 student visa, the individual must submit evidence that the school district has been reimbursed for the unsubsidized per capita cost of the education. These students are enrolled provided they otherwise qualify for admission. However, attendance at U.S. public high schools cannot exceed a total of 12 months.
3. B-2 visitor nonimmigrant visas. There is disagreement over whether these students must be enrolled tuition free. Their *visitor* visa is evidence of nonresident status. Call the district's attorney for guidance.
4. The qualified school-age child of an alien who holds another type of visa, i.e., A, E, H, I, L, etc., other than a visitor visa. These students are enrolled provided they otherwise qualify for admission. Likewise, dependents of foreign nationals on long-term visas are enrolled provided they otherwise qualify for admission.
5. No immigration documentation. *Plyler v. Doe*. A school cannot deny admission based upon immigration (illegal) status alone. Note that singling out foreign-looking students for visa requests is probably illegal discrimination. Thus, undocumented aliens are enrolled, provided they otherwise qualify for admission.
6. Immigrant visa. These students are enrolled provided they otherwise qualify for admission.

The Student and Exchange Visitor Information System (SEVIS) is an Internet-based system that provides tracking and monitoring, with access to accurate and current information on nonimmigrant students (F and M visas) and exchange visitors (J visa), and their dependents (F-2, M-2, and J-2). See §641, Illegal Immigration Reform and Immigrant Responsibility Act. Section 641 is an exception to the Family Educational Rights and Privacy Act ([20 U.S.C. §1232g](#)). See 8 C.F.R. §214.1(h). SEVIS enables schools and program sponsors to transmit electronic information and event notifications, via the Internet, to the [U.S.](#) Dept. of Homeland Security (DHS) and ~~the~~ DOS throughout a student's or exchange visitor's stay. SEVIS will provide system alerts, event notifications, and reports to the end-user schools and programs, as well as for DHS and DOS offices.

According to federal regulations, students who apply for F-1, M-1, F-3, J-1, or M-3 visas must pay a fee to the DHS. The regulations describe when and how the fee is to be paid, who is exempt from the fee, and the consequences for failure to pay, 8 C.F.R. Parts 103, 214, and 299.

**19** State law allows, but does not require, boards to waive nonresident tuition for these students. 105 ILCS 5/10-22.5a, amended by P.A. 102-126.

an F-1 visa are required to pay tuition at the established District rate.<sup>20</sup> F-1 visa student admission is limited to high schools, and attendance may not exceed 12 months.

The Board may limit the number of exchange students admitted in any given year. Exchange students must comply with District immunization requirements. Once admitted, exchange students become subject to all District policies and regulations governing students.

Re-enrollment<sup>21</sup> [*High School or Unit Districts only*]

Re-enrollment shall be denied to any individual 19 years of age or above who has dropped out of school and who could not earn sufficient credits during the normal school year(s) to graduate before his or her 21st birthday. However, at the Superintendent's or designee's discretion and depending on program availability, the individual may be enrolled in a graduation incentives program established under 105 ILCS 5/26-16 or an alternative learning opportunities program established under 105 ILCS 5/13B-1 (see 6:110, *Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program*). Before being denied re-enrollment, the District will offer the individual due process as required in cases of expulsion under policy 7:210, *Expulsion Procedures*. A person denied re-enrollment will be offered counseling and be directed to alternative educational programs, including adult education programs that lead to graduation or receipt of a GED diploma. This section does not apply to students eligible for special education under the Individuals with Disabilities Education Improvement Act or accommodation plans under the Rehabilitation Act, Section 504.

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<sup>20</sup> Exchange students on F-1 visas must pay the full-unsubsidized public education costs before entering the U.S. 8 U.S.C. §1101(a)(15)(F); 8 U.S.C. §1184(m). Boards may not waive the fee.

<sup>21</sup> 105 ILCS 5/26-2(b). The requirements in this section are provided in State law, that is: (1) it is mandatory that a district deny re-enrollment as provided in this section; (2) it is permissive whether to enroll the individual in a district graduation incentives program or alternative learning opportunities program (although depending on circumstances, a student below the age of 20 may be entitled to enroll in a graduation incentives program); (3) it is mandatory to provide due process before denying re-enrollment; (4) it is mandatory to offer the individual who is denied re-enrollment counseling and to direct that person to alternative educational programs; and (5) it is mandatory that this section not apply to students eligible for special education.

105 ILCS 5/26-2(c) allows a district to deny enrollment to a student 17 years of age or older for one semester for failure to meet minimum academic or attendance standards if certain conditions are met. See sample policy 7:70, *Attendance and Truancy*.

LEGAL REF.: 8 U.S.C. §1101, Illegal Immigrant and Immigrant Responsibility Act of 1996.  
20 U.S.C. §1232g, Family Educational Rights and Privacy Act.  
20 U.S.C. §1400 et seq., Individuals With Disabilities Education Improvement Act.  
29 U.S.C. §794, Rehabilitation Act of 1973, Section 504.  
42 U.S.C. §11431 et seq., McKinney-Vento Homeless Assistance Act.  
105 ILCS 5/2-3.13a, 5/10-20.12, 5/10-20.59, 5/10-22.5a, 5/14-1.02, 5/14-1.03a,  
5/26-1, 5/26-2, 5/27-8.1.  
105 ILCS 10/8.1, Ill. School Student Records Act.  
105 ILCS 45/, Education for Homeless Children Act.  
105 ILCS 70/, Educational Opportunity for Military Children Act.  
325 ILCS 50/, Missing Children Records Act.  
325 ILCS 55/, Missing Children Registration Law.  
410 ILCS 315/2, Communicable Disease Prevention Act.  
20 Ill.Admin.Code Part 1290, Missing Person Birth Records and School  
Registration.  
23 Ill.Admin.Code Part 226, Special Education.  
23 Ill.Admin.Code Part 375, Student Records.

CROSS REF.: 4:110 (Transportation), 6:30 (Organization of Instruction), 6:110 (Programs for  
Students At Risk of Academic Failure and/or Dropping Out of School and  
Graduation Incentives Program), 6:135 (Accelerated Placement Program), 6:140  
(Education of Homeless Children), 6:300 (Graduation Requirements), 6:310 (High  
School Credit for Non-District Experiences; Course Substitutions; Re-Entering  
Students), 7:60 (Residence), 7:70 (Attendance and Truancy), 7:100 (Health, Eye,  
and Dental Examinations; Immunizations; and Exclusion of Students), 7:340  
(Student Records)

## Students

### Residence<sup>1</sup>

#### Resident Students

Only students who are residents of the District may attend a District school without a tuition charge, except as otherwise provided below or in State law.<sup>2</sup> A student's residence is the same as the person who has legal custody of the student.<sup>3</sup>

A person asserting legal custody over a student, who is not the child's natural or adoptive parent, shall complete a signed statement, stating: (a) that he or she has assumed and exercises legal responsibility for the child, (b) the reason the child lives with him or her, other than to receive an education in the District, and (c) that he or she exercises full control over the child regarding daily educational and medical decisions in case of emergency. If the District knows the current address of the child's natural or adoptive parent, the District shall request in writing that the person complete a signed statement or affidavit stating: (a) the role and responsibility of the person with whom their child is living, and (b) that the person with whom the child is living has full control over the child regarding daily educational and medical decisions in case of emergency.<sup>4</sup>

A student whose family moves out of the District during the school year will be permitted to attend school for the remainder of the year without payment of tuition.<sup>5</sup>

When a student's change of residence is due to the military service obligation of the student's legal custodian, the student's residence is deemed to be unchanged for the duration of the custodian's military service obligation if the student's custodian made a written request. The District, however, is not responsible for the student's transportation to or from school.<sup>6</sup>

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<sup>1</sup> State or federal law controls this policy's content. For a resource, see the Ill. State Board of Education's non-regulatory guidance, *Residency & Enrollment, Immigrant Pupils, Homeless Pupils and School Fees & Waivers* at [www.isbe.net/Pages/Student-Registration-and-Enrollment-Guidance.aspx](http://www.isbe.net/Pages/Student-Registration-and-Enrollment-Guidance.aspx).

<sup>2</sup> In certain cases, no tuition may be charged for nonresident children placed: (1) by the Ill. Dept. of Children and Family Services with a foster parent or childcare facility (105 ILCS 5/10-20.12b); or (2) with a person who (i) has temporary custody of a child of a person who is on active military duty, and (ii) is responsible for making decisions for that child (105 ILCS 70/). ~~When special education services are provided, resident district is determined by 105 ILCS 5/14 1.11 and 14 1.11a, amended by P.A. 102-514.~~

<sup>3</sup> In the case of divorced or divorcing parents, the Ill. Marriage and Dissolution of Marriage Act (IMDMA), 750 ILCS 5/, provides that "for purposes of Section 10-20.12b of the School Code only, the parent with the majority of parenting time is considered to have legal custody." See 750 ILCS 5/606.10. The IMDMA also requires a *parenting plan* that sets forth a child's residential address for school enrollment purposes. 750 ILCS 5/602.10(f)(6). **Consult the board attorney when the residential address set forth in a parenting plan is not the address of the parent with the majority of parenting time.**

<sup>4</sup> 105 ILCS 5/10-20.12b. In order to establish residence, a school district may not require a parent to transfer custody/guardianship to the person with whom the child is living. *Israel S. by Owens v. Bd. of Educ. of Oak Park and River Forest High Sch. Dist. 200*, 235 Ill.App.3d 652 (5th Dist. 1992). See also *Joel R. v. Bd. of Educ. of Manheim Sch. Dist. 83*, 292 Ill.App.3d 607 (1st Dist. 1997).

<sup>5</sup> 105 ILCS 5/10-20.12a.

<sup>6</sup> 105 ILCS 5/10-20.12b(a-5).

If, at the time of enrollment, a dependent child of military personnel is housed in temporary housing located outside of the District, but will be living within the District within six months after the time of initial enrollment, the child is allowed to enroll, subject to the requirements of State law, and must not be charged tuition.<sup>7</sup>

### Residence of Students with Disabilities<sup>8</sup>

The residence of a child with a disability is determined in accordance with 105 ILCS 5/14-1.11, 5/14-1.11a, and 5/14-1.11b.

### Requests for Nonresident Student Admission<sup>9</sup>

Nonresident students may attend District schools upon the approval of a request submitted by the student's parent(s)/guardian(s) for nonresident admission. The Superintendent may approve the request subject to the following:<sup>10</sup>

1. The student will attend on a year-to-year basis. Approval for any one year is not authorization to attend a following year.
2. The student will be accepted only if there is sufficient room.
3. The student's parent(s)/guardian(s) will be charged the maximum amount of tuition as allowed by State law.<sup>11</sup>
4. The student's parent(s)/guardian(s) will be responsible for transporting the student to and from school.

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<sup>7</sup> 105 ILCS 5/10-22.5a(a-5), amended by P.A. 102-126. Military personnel must provide proof that the child will be living within the district within six months after the date of initial enrollment. Proof of residency may include postmarked mail addressed to the military personnel and sent to an address located within the district, a lease agreement for occupancy of a residence located within the district, or proof of ownership of a residence located within the district.

<sup>8</sup> When special education services are provided, a student's resident district is determined by 105 ILCS 5/14-1.11 (when the resident district is the district in which the parent/guardian resides), 14-1.11a, amended by P.A. 102-514 (when the resident district is the district in which the student resides), and 14-1.11b (applying the provisions of 105 ILCS 5/14-1.11 and 14-1.11a to determine the resident district in all cases in which special education services and facilities are provided).

<sup>9</sup> Optional. A district that wants to include this subhead should specify and customize the listed criteria to match local conditions. Consult the board attorney regarding cost exceptions that may be applicable to specific student populations such as students with disabilities.

<sup>10</sup> ~~State law is silent regarding nonresident student enrollment except to require the parent(s)/guardian(s) to pay tuition. 105 ILCS 5/10-20.12a and 5/10-20.12b.~~

105 ILCS 5/10-20.12a(a), amended by P.A. 103-111, allows boards to adopt a policy to waive nonresident tuition if the student is the child of a district employee. A child means a district employee's child who is a biological child, adopted child, foster child, stepchild, or a child for which the employee serves as legal guardian. Id. If a board wishes to accept requests from district employees for their nonresident children to attend school in the district on a tuition-free basis, insert the following language as its own paragraph after the numbered list:

For a nonresident student who is the child of a District employee, if the Superintendent approves the request for nonresident admission for the student, the tuition cost is waived pursuant to 105 ILCS 5/10-20.12a(a).

<sup>11</sup> 105 ILCS 5/10-20.12a specifies a formula for calculating the maximum amount a district can charge nonresident students.

## Admission of Nonresident Students Pursuant to an Agreement or Order <sup>12</sup>

Nonresident students may attend District schools ~~tuition-free~~ pursuant to:

1. A written agreement with an adjacent school district to provide for tuition-free attendance by a student of that district, provided both the Superintendent or designee and the adjacent district determine that the student's health and safety will be served by such attendance.
2. A written agreement with cultural exchange organizations and institutions supported by charity to provide for tuition-free attendance by foreign exchange students and nonresident pupils of charitable institutions.
3. According to an intergovernmental agreement.
4. Whenever any State or federal law or a court order mandates the acceptance of a nonresident student.

## Homeless Children

Any homeless child shall be immediately admitted, even if the child or child's parent/guardian is unable to produce records normally required to establish residency.<sup>13</sup> School Board policy 6:140, *Education of Homeless Children*, and its implementing administrative procedure, govern the enrollment of homeless children.

## Challenging a Student's Residence Status <sup>14</sup>

If the Superintendent or designee determines that a student attending school on a tuition-free basis is a nonresident of the District for whom tuition is required to be charged, he or she on behalf of the School Board shall notify the person who enrolled the student of the tuition amount that is due. The notice shall detail the specific reasons why the Board believes that the student is a nonresident of the District<sup>15</sup> and shall be given by certified mail, return receipt requested. The person who enrolled the student may challenge this determination and request a hearing as provided by the School Code, 105 ILCS 5/10-20.12b.

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<sup>12</sup> The agreement described in #1 is optional (105 ILCS 5/10-22.5a(a)) and districts are not required to enter into such agreements nor to alter existing transportation services due to the attendance of such nonresident students. The agreement described in #2 is optional (105 ILCS 5/10-22.5a(a)); districts should be sure it is consistent with sample policy 7:50, *School Admissions and Student Transfers To and From Non-District Schools*. An example of an agreement described in #3 is one to accept nonresident students; entering into such an agreement is optional.

<sup>13</sup> Required by 105 ILCS 45/ and the McKinney-Vento Homeless Assistance Act, 42 U.S.C. §11431 *et seq.* See §11432 (g)(3)(C)(i).

<sup>14</sup> *Id.* See [sample](#) administrative procedure 7:60-AP1, *Challenging a Student's Residence Status*, for sample procedures implementing this paragraph.

<sup>15</sup> 105 ILCS 5/10-20.12b.



LEGAL REF.: 42 U.S.C. §11431 et seq., McKinney-Vento Homeless Assistance Act.  
105 ILCS 5/10-20.12a, 5/10-20.12b, 5/10-22.5, ~~and~~ 5/10-22.5a, 5/14-1.11, 5/14-1.11a, and 5/14-1.11b.  
105 ILCS 45/, Education for Homeless Children Act.  
105 ILCS 70/, Educational Opportunity for Military Children Act.  
23 Ill.Admin.Code §1.240.  
Israel S. by Owens v. Bd. of Educ. of Oak Park and River Forest High Sch. Dist. 200, 235 Ill.App.3d 652 (5th Dist. 1992).  
Joel R. v. Board of Education of Manheim School District 83, 292 Ill.App.3d 607 (1st Dist. 1997).  
Kraut v. Rachford, 51 Ill.App.3d 206 (1st Dist. 1977).

CROSS REF.: 6:140 (Education of Homeless Children), 7:50 (School Admissions and Student Transfers To and From Non-District Schools), 7:70 (Attendance and Truancy)

## Students

### Attendance and Truancy <sup>1</sup>

#### Compulsory School Attendance <sup>2</sup>

This policy applies to individuals who have custody or control of a child: (a) between the ages of six (on or before September 1) and 17 years (unless the child has graduated from high school), or (b) who is enrolled in any of grades kindergarten through 12 in the public school regardless of age.

Subject to specific requirements in State law, the following children are not required to attend public school: (1) any child attending a private school (including a home school) or parochial school, (2) any child who is physically or mentally unable to attend school (including a pregnant student suffering medical complications as certified by her physician), (3) any child lawfully and necessarily employed, (4) any child over 12 and under 14 years of age while in confirmation classes, (5) any child absent because of religious reasons, including to observe a religious holiday, for religious instruction, or because his or her religion forbids secular activity on a particular day(s) or time of day, and (6) any child 16 years of age or older who is employed and is enrolled in a graduation incentives program.

The parent/guardian of a student who is enrolled must authorize all absences from school and notify the school in advance or at the time of the student's absence. A valid cause for absence includes illness (including mental or behavioral health of the student),<sup>3</sup> observance of a religious holiday,

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<sup>1</sup> State law requires boards to adopt a policy covering some of the topics herein and controls this policy's content. 105 ILCS 5/22-92, added by P.A. 102-157 and renumbered by P.A. 102-813; 23 Ill.Admin Code Part 207. Any school receiving public funds must develop and annually communicate to its students and their parents/guardians an absenteeism and truancy policy. *Id.* The Ill. Principals Association (IPA) maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook* (MSH), at: [www.ilprincipals.org/msh/](http://www.ilprincipals.org/msh/).

This policy must be updated every two years and filed with the Ill. State Board of Education (ISBE) and the regional superintendent of schools [or Intermediate Service Center Executive Director, whichever is appropriate]. 105 ILCS 5/22-92(b), added by P.A. 102-157 and renumbered by P.A. 102-813; 23 Ill.Admin.Code §207.30(a). 105 ILCS 5/3-0.01 states that any references to *regional superintendent* include the chief administrative officer of Intermediate Service Centers established under 105 ILCS 5/2-3.62. See the **Monitoring** subhead and f/n 21, below.

<sup>2</sup> 105 ILCS 5/26-2 addresses enrolled students below or over set compulsory attendance ages. The law also requires any persons having custody or control of a child who is enrolled in grades kindergarten through 12 in the public school to cause the child to attend school.

105 ILCS 5/26-1, amended by P.A.s 102-406, 102-266, 102-321, and 102-981-~~eff. 1-1-23~~, contains the compulsory school age exemptions. Each listed exception is specifically included in the statute, except the reference to *home school*. See [sample policy](#) 7:40, *Nonpublic School Students, Including Parochial and Home-Schooled Students*, regarding assigning students who enroll from a non-public school. See [sample policy](#) 6:150, *Home and Hospital Instruction*, regarding providing instruction to a pregnant student or other student who is medically unable to attend school.

<sup>3</sup> 105 ILCS 5/26-1 and 5/26-2a, amended by P.A.s. 102-266 and 102-321. A student may be absent for mental or behavioral health for up to five days without providing a medical note, and the student must be given an opportunity to make up any missed school work. *Medical note* is not defined, but the same portion of the statute discusses a student's inability to attend school due to a disability being certified by an Illinois licensed physician, chiropractic physician, advanced practice registered nurse, or physician assistant; presumably, any of these individuals could provide a *medical note*. After the second mental health day used, the student may be referred to the appropriate school support personnel. *Id.* See [sample policy](#) 7:250, *Student Support Services*.

death in the immediate family, attendance at a civic event,<sup>4</sup> family emergency, other situations beyond the control of the student as determined by the Board, voting pursuant to policy 7:90, *Release During School Hours* (10 ILCS 5/7-42 and 5/17-15), other circumstances that cause reasonable concern to the parent/guardian for the student’s mental, emotional, or physical health or safety, or other reason as approved by the Superintendent or designee.<sup>5</sup> Students absent for a valid cause may make up missed homework and classwork assignments in a reasonable timeframe.<sup>6</sup>

### Absenteeism and Truancy Program

The Superintendent or designee shall manage an absenteeism and truancy program in accordance with the School Code and School Board policy. The program shall include but not be limited to:

1. A protocol for excusing a student from attendance who is necessarily and lawfully employed. The Superintendent or designee is authorized to determine when the student’s absence is justified.<sup>7</sup>

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<sup>4</sup> 105 ILCS 5/26-1 and 5/26-2a, amended by P.A. 102-981, ~~eff. 1-1-23~~. Subject to ISBE guidelines, a middle or high school student shall be permitted one school day-long excused absence per school year to engage in a *civic event*, defined as “an event sponsored by a non-profit organization or governmental entity that is open to the public. *Civic event* includes, but is not limited to, an artistic or cultural performance or educational gathering that supports the mission of the sponsoring non-profit organization. Schools may require students to provide an appropriate administrator with reasonable advance notice of the intended absence and documentation of participation.

<sup>5</sup> 105 ILCS 5/22-92(a)(1), added by P.A. 102-157 and renumbered by P.A. 102-813, requires a policy with a definition of valid cause for absence in accordance with 105 ILCS 5/26-2a. These reasons are in 105 ILCS 5/26-2a except that (1) “other reason as approved by the Superintendent,” and (2) absences for students to vote authorized by 10 ILCS 5/7-42 and 5/17-15, ~~amended by P.A. 101-624~~, were added. An ISBE rule requires that the absenteeism and truancy policy define valid causes for absence. 23 Ill.Admin.Code §1.290.

For elementary districts, delete the following phrase from the second sentence of this paragraph: “~~voting pursuant to policy 7:90, Release During School Hours (10 ILCS 5/7-42 and 5/17-15),~~” and delete 7:90, *Release During School Hours*, from the Cross References.

For high school and unit districts that do not wish to include the **Voting** subhead in policy 7:90, *Release During School Hours*, amend the second sentence of this paragraph as follows: “~~policy 7:90, Release During School Hours (the Election Code, 10 ILCS 5/7-42 and 5/17-15),~~” and delete 7:90, *Release During School Hours* from the Cross References.

<sup>6</sup> See f/n 3. In addition, 105 ILCS 5/10-20.78, added by P.A. 102-471 and renumbered by P.A. 102-813, requires a written policy related to absences and missed homework or classwork assignments as a result of or related to a student’s pregnancy. It makes sense to apply such a policy to all students who are absent for a valid cause.

<sup>7</sup> Any child “necessarily and lawfully employed” may be exempted from attendance by the superintendent “on certification of the facts by and the recommendation of the school board.” 105 ILCS 5/26-1. The policy’s language serves to delegate this “certification of the facts” to the superintendent or designee. The following option allows a board to consider and include specific criteria in the policy:

A student may be excused, at the Superintendent’s discretion, when: (1) the student has a last period study hall, (2) the parent/guardian provides written permission, (3) the student’s employer provides written verification of employment, (4) the student provides evidence of a valid work permit, or (5) other reason deemed justifiable by the Superintendent.

Child Labor laws include: 29 C.F.R. Part 570 (minimum age standards, occupations, conditions, etc.); 820 ILCS 205/, amended by P.A. 102-32 ~~and 103-201, eff. 1-1-24~~ (child labor law); 56 Ill.Admin.Code Part 250 (child labor regulations). To streamline the employment certificate process for minors, the Ill. Dept. of Labor (IDOL) has a paperless certification system for districts to provide IDOL with the name and contact information of the superintendent or designee as the *issuing officer*. The *issuing officer* will then be granted access to electronically complete and submit either the IDOL’s *Employment Certificate Form* or *Temporary Employment Certificate Form*, at: [www2.illinois.gov/idol/Laws-Rules/FLS/Pages/Employment-Certificates-Minors.aspx](http://www2.illinois.gov/idol/Laws-Rules/FLS/Pages/Employment-Certificates-Minors.aspx).

2. A protocol for excusing a student in grades 6 through 12 from attendance to sound *Taps* at a military honors funeral held in Illinois for a deceased veteran. <sup>8</sup>
3. A protocol for excusing a student from attendance on a particular day(s) or at a particular time of day when his/her parent/guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from, or has immediately returned from deployment to a combat zone or combat-support postings. <sup>9</sup>
4. A process to telephone, within two hours after the first class, the parents/guardians of students in grade 8 or below who are absent without prior parent/guardian notification. <sup>10</sup>
5. A process to identify and track students who are truants, chronic or habitual truants, or truant minors as defined in 105 ILCS 5/26-2a.
6. A description of diagnostic procedures for identifying the cause(s) of a student's unexcused absenteeism, including interviews with the student, his or her parent(s)/guardian(s), and staff members or other people who may have information about the reasons for the student's attendance problem. <sup>11</sup>
7. The identification of supportive services that may be offered to truant, chronically truant, or chronically absent students, including parent-teacher conferences, student and/or family counseling, or information about community agency services.<sup>12</sup> See Board policy 6:110, *Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program*.
8. A process for the collection and review of chronic absence data and to:
  - a. Determine what systems of support and resources are needed to engage chronically absent students and their families, and

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<sup>8</sup> 105 ILCS 5/26-1. A student must notify the building principal or other administrator at least two days prior to the absence providing the date, time, and location of the military honors funeral. This requirement may be waived if the student did not receive notice at least two days in advance, but the student shall notify the administration as soon as possible of the absence.

A student whose absence is excused to sound *Taps* shall be counted in attendance for purposes of calculating the average daily attendance of students in the district. The district must allow the student reasonable time to make up school work and if school work is satisfactorily completed, the day of absence is counted as an attendance day for the student.

<sup>9</sup> 105 ILCS 5/26-1. Such a student must be granted five days of excused absences in any school year and, at the board's discretion, may be granted additional excused absences to visit the student's parent/guardian. The student and his/her parent/guardian are responsible for obtaining assignments from the student's teacher prior to any period of excused absence and for ensuring that such assignments are completed by the student prior to his/her return to school from the excused absence period. Id.

<sup>10</sup> This notification is required by 105 ILCS 5/26-3b.

<sup>11</sup> 105 ILCS 5/22-92(a)(2), added by P.A. 102-157 and renumbered by P.A. 102-813.

<sup>12</sup> Id. at (3), added by P.A. 102-157 and renumbered by P.A. 102-813. The School Code references to dropout prevention include: 105 ILCS 5/26-3a (regional superintendent activities and annual report); 105 ILCS 5/10-20.25a (annual report by boards); and 105 ILCS 5/1A-4(E), amended by P.A. 102-894 (ISBE report).

- b. Encourage the habit of daily attendance and promote success. <sup>13</sup>
9. Reasonable efforts to provide ongoing professional development to teachers, administrators, Board members, school resource officers, and staff on the appropriate and available supportive services for the promotion of student attendance and engagement. <sup>14</sup>
10. A process to request the assistance and resources of outside agencies, such as, the juvenile officer of the local police department or the truant officer of the appropriate Regional Office of Education, if truancy continues after supportive services have been offered. <sup>15</sup>
11. A protocol for cooperating with non-District agencies including County or municipal authorities, the Regional Superintendent, truant officers, the Community Truancy Review Board, and a comprehensive community based youth service agency. Any disclosure of school student records must be consistent with Board policy 7:340, *Student Records*, as well as State and federal law concerning school student records. <sup>16</sup>

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<sup>13</sup> 105 ILCS 5/22-92(a)(4), added by P.A. 102-157 and renumbered by P.A. 102-813, requires the incorporation of provisions relating to chronic absenteeism in accordance with 105 ILCS 5/26-18. 105 ILCS 5/26-18 requires districts to collect and review chronic absence data and determine what systems of support and resources are needed to engage chronically absent students and their families to encourage the habit of daily attendance and promote success. 105 ILCS 5/26-18(c). The review must include an analysis of chronic absence data from each attendance center. *Id.* Districts are also encouraged to: (1) provide a system of support to students at risk of reaching or exceeding chronic absence levels, i.e., those available through the Illinois Multi-tiered Systems of Support Network; and (2) make resources available to families, i.e., those available through ISBE’s Family Engagement Framework, to support and engage students and their families. 105 ILCS 5/26-18(d). *Chronic absence* means “absences that total 10% or more of school days of the most recent school year, including absences with and without valid cause, as defined in Section 26-2a of this Code, and out-of-school suspensions for an enrolled student.” 105 ILCS 5/26-18(a). In contrast, a *chronic or habitual truant* is “a child who is subject to compulsory school attendance and who is absent without valid cause from such attendance for 5% or more of the previous 180 regular attendance days.” 105 ILCS 5/26-2a.

<sup>14</sup> 105 ILCS 5/10-22.6(c-5).

<sup>15</sup> Use this alternative for districts in suburban Cook County: replace “Regional Office of Education” with “appropriate Intermediate Service Center.”

<sup>16</sup> 105 ILCS 5/26-9 requires school officers and superintendents to assist truant officers. A minor who is reported by the regional superintendent as a chronic truant may be adjudicated a “truant minor in need of supervision” if the minor declines or refuses to fully participate in truancy intervention services. 705 ILCS 405/3-33.5, amended by P.A. [102-456](#) and [103-379](#). Truant minors in need of supervision may be required by the court to perform reasonable public service that does not interfere with school hours, school related activities, or work commitments of the minor or the minor’s parent, guardian, or legal custodian. *Id.* Fees or costs may not be ordered or imposed in contempt proceedings related to the minor’s adjudication as a truant minor in need of supervision. *Id.*

Counties may regulate truants by ordinance and impose fines and/or community services on truants, [as permitted by law](#), or, if the truant is under 10 years of age, on the parent or custodian. 55 ILCS 5/5-1078.2; [55 ILCS 5/5-1101.3, amended by P.A. 103-379](#). Municipalities may regulate truants by ordinance and impose fines and/or community services on truants, [as permitted by law](#), or, if the truant is under 13 years of age, on the parent or custodian. 65 ILCS 5/11-5-9. Local officials or authorities that enforce, prosecute, or adjudicate municipal ordinances adopted under 65 ILCS 5/11-5-9, or that work with school districts to address truancy problems, are designated as: (a) part of the juvenile justice system, established by the Juvenile Court Act of 1987, and (b) *juvenile authorities* within the definition set forth in subsection (a)(6.5) of Section 10-6 of the Ill. School Student Records Act. 105 ILCS 10/6(a)(6.5). *Id.* **A superintendent should consult with the board attorney before disclosing school student records to non-district entities.** See 7:340-API, *School Student Records*, for a sample procedure for release of such records to juvenile authorities.

[Passed in response to a ProPublica article series entitled The Price Kids Pay, at: www.propublica.org/series/the-price-kids-pay, P.A. 103-379 restricts the ability of the juvenile courts and certain county boards to assess fines, fees, assessments, and costs to minors and the minor’s parents/guardians, subject to the minor’s adjudication under various ordinances and statutes.](#)

12. An acknowledgement that no punitive action, including out-of-school suspensions, expulsions, or court action, shall be taken against a truant minor for his or her truancy unless available supportive services and other school resources have been provided to the student. <sup>17</sup>
13. The criteria to determine whether a student's non-attendance is due to extraordinary circumstances shall include economic or medical necessity or family hardship and such other criteria that the Superintendent believes qualifies. <sup>18</sup>  
[For high school and unit districts only]
14. A process for a 17-year-old resident to participate in the District's various programs and resources for truants. <sup>19</sup> The student must provide documentation of his/her dropout status for the previous six months. A request from an individual 19 years of age or older to re-enroll after having dropped out of school is handled according to provisions in 7:50, *School Admissions and Student Transfers To and From Non-District Schools*.
15. A process for the temporary exclusion of a student 17 years of age or older for failing to meet minimum attendance standards according to provisions in State law. A parent/guardian has the right to appeal a decision to exclude a student. <sup>20</sup>

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<sup>17</sup> 105 ILCS 5/26-12 prohibits punitive action "unless available supportive services and other school resources have been provided to the student." In addition, "a truant minor may not be expelled for nonattendance unless he or she has accrued 15 consecutive days of absences without valid cause and the student cannot be located by the school district or the school district has located the student but cannot, after exhausting all available supportive services, compel the student to return to school." *Id.*

<sup>18</sup> 105 ILCS 5/26-3a requires the district to "establish, in writing, a set of criteria for use by the local superintendent of schools in determining whether a pupil's failure to attend school is the result of extraordinary circumstances, including but not limited to economic or medical necessity or family hardship."

This statute also requires the "clerk or secretary" of the board to quarterly report to the regional superintendent and Secretary of State the identity of students who were removed from the regular attendance roll, exclusive of transferees, because they were expelled; have withdrawn; left school; withdrew due to extraordinary circumstances; have re-enrolled in school since their names were removed from the attendance rolls; were certified to be chronic or habitual truants; or were previously certified as chronic or habitual truants who have resumed regular school attendance. The statute provides that the status of a driver's license or instructional permit will be jeopardized for a student who is the subject of this notification because of non-attendance unless the non-attendance is due to extraordinary circumstances as determined by the local district. State Superintendent Koch announced in his *Weekly Message*, 8-28-07, see **Funding & Disbursements** subhead, p.2, at: [www.isbe.net/Documents\\_Superintendent\\_Weekly\\_Message/message\\_082807.pdf](http://www.isbe.net/Documents_Superintendent_Weekly_Message/message_082807.pdf), that ISBE is delaying implementing this statute based upon legal guidance from the U.S. Dept. of Education's Family Policy Compliance Office that its implementation would violate the federal Family Educational Rights and Privacy Act.

<sup>19</sup> A district must allow this participation; the length of the drop-out period and the documentation requirement contained in the next sentence are permissive. 105 ILCS 5/26-14.

<sup>20</sup> Optional, but provided in 105 ILCS 5/26-2(c)(3); ISBE's rule controls the appeal process, 23 Ill.Admin.Code §1.242.

## Monitoring <sup>21</sup>

Pursuant to State law and policy 2:240, *Board Policy Development*, the Board updates this policy at least once every two years. The Superintendent or designee shall assist the Board with its update.

LEGAL REF.: 105 ILCS 5/22-92 and 5/26-1 through [5/26-3, 5/26-5 through 5/26-16, and 5/26-18](#).  
705 ILCS 405/3-33.5, Juvenile Court Act of 1987.  
23 Ill.Admin.Code §§1.242 and Part 207.

CROSS REF.: 5:100 (Staff Development Program), 6:110 (Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program), 6:150 (Home and Hospital Instruction), 7:10 (Equal Educational Opportunities), 7:50 (School Admissions and Student Transfers To and From Non-District Schools), 7:60 (Residence), 7:80 (Release Time for Religious Instruction/Observance), 7:90 (Release During School Hours), 7:190 (Student Behavior), 7:340 (Student Records)

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<sup>21</sup> 105 ILCS 5/22-92(b), added by P.A. 102-157 and renumbered by P.A. 102-813. Every two years this policy must be updated and, even if no updates are made, filed with ISBE and the regional superintendent of schools [or Intermediate Service Center Executive Director, whichever is appropriate]. *Id.*; 23 Ill.Admin.Code §207.30. The policy must contain all requirements of 105 ILCS 5/22-92, indicate the date of adoption (by month, day, and year) and any revision dates, and be filed electronically by September 30 each review year through ISBE's Web Application Security (IWAS) system. 23 Ill.Admin.Code §§207.20(a), 207.30(a). If, after review and re-evaluation of the policy, the district determines that no updates are necessary, either a copy of board minutes clearly indicating the policy was re-evaluated and no changes were deemed necessary or a signed statement from the board president indicating the policy was re-evaluated and no changes were deemed necessary must be submitted to IWAS. 23 Ill.Admin.Code §207.30(a)(3). ISBE has stated that for districts that update the adoption date listed on a policy whenever the policy is updated, the date of adoption is sufficient to also indicate the revision date. See ISBE *Absenteeism and Truancy Policy FAQ*, at: [www.isbe.net/Documents/Absenteeism-Truancy-Policy-FAQ.pdf](http://www.isbe.net/Documents/Absenteeism-Truancy-Policy-FAQ.pdf).

## Students

### Student Appearance <sup>1</sup>

A student's appearance, including dress and hygiene, must not disrupt the educational process or compromise standards of health and safety. The District does not prohibit hairstyles historically associated with race, ethnicity, or hair texture, including, but not limited to, protective hairstyles such as braids, locks, and twists.<sup>2</sup> The District also does not prohibit the right of a student to wear or accessorize the student's graduation attire with items associated with the student's cultural, ethnic, or religious identity or other characteristic or category protected under the Ill. Human Rights Act, 775

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<sup>1</sup> Required by 105 ILCS 5/10-22.25b, amended by P.A.s 102-360 and 103-463, eff. 1-1-22, for recognition under 105 ILCS 5/2-3.25-~~(Jett Hawkins Law)~~. For districts to receive recognition from the Ill. State Board of Education (ISBE), they must provide assurances of compliance with the *Jett Hawkins Law (hairstyles)*, and P.A. 103-463 addressing graduation attire; this policy's second and third sentences does that. Ill. State Board of Education (ISBE) resources on the Jett Hawkins Law are available at: [www.isbe.net/jetthawkinslaw](http://www.isbe.net/jetthawkinslaw). ISBE will have resource materials on P.A. 103-463 at its website by 7-1-24. State or federal law also controls this policy's content.

105 ILCS 5/10-22.25b, amended by P.A.s 102-360 and 103-463, eff. 1-1-22, specifically authorizes a school board to adopt a school uniform or dress code policy. **There are hundreds of decisions on dress codes and uniform policies, making it imperative that a board contact its attorney for assistance in applying the law to specific fact situations.**

Generally, if a student's dress has sufficient communicative content, it will warrant First Amendment protection. If protected, a school's ability to regulate the dress will be analyzed according to Tinker v. Des Moines Indep. Sch. Dist., 393 U.S. 503 89 S.Ct. 733 (1969) – it may be regulated only if it would substantially disrupt school operations or interfere with the right of others. In Brandt v. Bd. of Educ. of City of Chicago, 420 F.Supp.2d 921 2006 WL 623654 (N.D.Ill. 2006), *earlier decision*, 326 F.Supp.2d 916 (N.D.Ill., 2004), an Illinois federal court upheld a school's authority to punish students for wearing t-shirts portraying a one-handed boy; the court said: "A school need not tolerate student speech that is inconsistent with the school's basic educational mission even though the First Amendment would protect similar speech or expressive conduct outside of the school setting. This holding is suspect after the Seventh Circuit decision in Zamecnik v. Indian Prairie Sch. Dist. #204, 636 F.3d 874 (7th Cir. 2011). There the court held that the school district violated students' free speech rights by forbidding them from wearing during school hours a T-shirt saying "Be Happy, Not Gay."

A school may regulate student dress that does not have sufficient communicative content to receive free speech protection, provided the regulation is not arbitrary or excessive. Although many courts have ruled similarly with respect to grooming, e.g., hair length, and non-earring piercings, the Seventh Circuit, the federal appellate court that governs Illinois, has struck down school regulations governing hair length and earrings (See Breen v. Kahl, 419 F.2d 1034 (7th Cir. 1969); Crews v. Cloncs, 432 F.2d 1259 (7th Cir. 1970) (exclusion of long-haired student from class constituted denial of equal protection to male students); Arnold v. Carpenter, 459 F.2d 939 (7th Cir. 1972); Holsapple v. Woods, 500 F.2d 49 (7th Cir. 1974) (limitation of ruling recognized by Hayden ex rel. v. Greensburg Cmty. Sch. Corp., 743 F.3d 569 (7th Cir. 2014) (recognizing school's right to set policy); Olesen by Olesen v. Bd. of Educ. Dist. 228, 676 F.Supp. 820, 822 (N.D.Ill.1987) (male students have a liberty interest in wearing an earring to school). But see Blau v. Fort Thomas Public Sch. Dist., 401 F.3d 381 (6th Cir. 2005) (upheld a Kentucky middle school's student dress code that prohibited visible body piercing other than ears). A school's uniform policy was upheld in Alwood v. Clark and Belleville Twp. High Sch. Dist. 201, 2005 WL 2001317 (S.D.Ill. 2005).

<sup>2</sup> For boards that want to expand upon the law's requirement of race, ethnicity, or hair texture, amend this sentence as follows:

"The District does not prohibit hairstyles or hair textures historically associated with ~~historically associated with~~ race, ethnicity, ~~or~~ hair texture, or any other protected classes under Board policy 7:10, Equal Educational Opportunities, including, but not limited to, protective hairstyles such as braids, locks, and twists."

If the board chooses this expansion and also uses policy 7:165, *School Uniforms*, ensure that this option aligns with the option in 7:165's f/n 10.



[ILCS 5/1-103\(Q\)](#).<sup>3</sup> Students who disrupt the educational process or compromise standards of health and safety must modify their appearance. Procedures for guiding student appearance will be developed by the Superintendent or designee and included in the *Student Handbook(s)*.<sup>4</sup>

LEGAL REF.: 105 ILCS 5/2-3.25 and 5/10-22.25b.  
Tinker v. Des Moines Indep. Sch. Dist., 393 U.S. 503 (1969).

CROSS REF.: 7:10 (Equal Educational Opportunities), 7:130 (Student Rights and Responsibilities), 7:165 (School Uniforms), 7:190 (Student Behavior)

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<sup>3</sup> [105 ILCS 5/10-22.25b](#), amended by P.A.s 102-360 and 103-463. [775 ILCS 5/1-103\(Q\)](#), which is referenced in [105 ILCS 5/10-22.25b](#), prohibits unlawful discrimination based on a person's actual or perceived race, color, religion, national origin, ancestry, age, sex, marital status, order of protection status, disability, military status, sexual orientation, pregnancy, or unfavorable discharge from military service.

<sup>4</sup> A comprehensive Student Handbook can provide notice to parents and students of the school's conduct rules, extracurricular and athletic participation requirements, and other important information. The Handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and board.

Members of the Ill. Principals Assoc. may subscribe to the IPA's Model Student Handbook Service. While this service is not a handbook *per se*, it provides principals with quick, user-friendly access to model student handbook provisions that are attorney drafted and fully aligned with IASB's policy services. For more information, see:

[www.ilprincipals.org/msh](http://www.ilprincipals.org/msh)/[www.ilprincipals.org/resources/model-student-handbook](http://www.ilprincipals.org/resources/model-student-handbook). See also [sample exhibit 7:190-E2, Student Handbook Checklist](#).

## Students

### School Uniforms <sup>1</sup>

Students are encouraged to wear school uniforms to school on all school attendance days, in order to maintain and promote orderly school functions, student safety, and a positive learning environment.<sup>2</sup> The Building Principal is authorized to designate days on which this uniform policy is relaxed.<sup>3</sup>

The Superintendent or designee shall designate a school-wide uniform after receiving input from school staff members, parents, and interested community members.<sup>4</sup> Students may:<sup>5</sup>

1. Display religious messages on items of clothing to the same extent they are permitted to display other messages;
2. Wear attire that is part of the student's religious practice;

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<sup>1</sup> State or federal law controls this policy's content. This policy concerns an area in which the law is unsettled. Boards may adopt a school uniform policy, provided it is "necessary to maintain the orderly process of a school function or prevent endangerment of student health or safety." 105 ILCS 5/10-22.25b, amended by P.A. ~~s~~ 102-360, ~~eff. 1-1-22~~ (*Jett Hawkins Law*) and P.A. 103-463 (*graduation attire*).

<sup>2</sup> Alternatively, the board may designate certain individual attendance centers.

A voluntary school uniform policy permits students to freely choose whether and under what circumstances they will wear the uniform. A voluntary policy allows the district to gauge parental support—something that is vital to the policy's success. In addition, a voluntary policy does not implicate the First Amendment.

Boards may adopt a mandatory uniform policy, with or without an *opt-out* provision. An *opt-out* provision allows a student to be excused from the policy because of an objection from a parent/guardian based on cultural, religious, or other reasons. While the constitutionality of a mandatory uniform policy is disputed, the inclusion of an *opt-out* provision reduces vulnerability to constitutional attack. For districts desiring a mandatory uniform policy, substitute this provision for the first sentence (eliminate the 2nd sentence if no *opt-out* provision is wanted):

Students are required to wear school uniforms to school on all attendance days, unless otherwise indicated by the Building Principal, in order to maintain and promote orderly school functions, student safety, and a positive learning environment. This policy will be waived for any student whose parent/guardian provides the Board with a signed statement detailing the grounds for their objection.

<sup>3</sup> Optional; eliminate this sentence if the board wants to enforce the policy every day.

<sup>4</sup> Boards may allow each school to designate its own uniform or designate a district-wide uniform, as the following alternative provides:

The Superintendent or designee shall designate a district-wide uniform after receiving input from school staff members, parents, and interested community members.

<sup>5</sup> A uniform policy must accommodate students whose religious beliefs are substantially burdened by a uniform requirement. Religious messages may not be singled out for suppression; they must be subject to the same rules as generally apply to other messages. For more information, see U.S. Dept. of Education's publication:

[www2.ed.gov/policy/gen/guid/religionandschools/prayer\\_guidance.html](http://www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html)~~www.ed.gov/policy/gen/guid/religionandschools/prayer\_guidance.html~~

3. Wear or display expressive items, such as a button, as long as such items do not contribute to disruption by substantially interfering with discipline or with the rights of others;<sup>6</sup> and
4. Wear the uniform of a nationally recognized youth organization such as Boy Scouts or Girl Scouts on regular meeting days.

No student shall be denied attendance at school, penalized, or otherwise subject to compliance measures for failing to wear a uniform because of:

1. Personal choice;<sup>7</sup>
2. Insufficient time in which to comply with this policy;<sup>8</sup>
3. Financial hardship;<sup>9</sup>
4. Hairstyles, including hairstyles historically associated with race, ethnicity, or hair texture, including, but not limited to, protective hairstyles such as braids, locks, and twists;<sup>10</sup>
- 4.5. [Graduation attire or accessories to graduation attire associated with the student's cultural, ethnic, or religious identity or other characteristic or category protected under the Ill. Human Rights Act, 775 ILCS 5/1-103\(Q\);<sup>11</sup>](#) or
- 5.6. Religious objection by the student's parent/guardian to the student's compliance with this policy or the applicable uniform, if they have provided the Superintendent with a signed statement detailing their objection.<sup>12</sup>

Any student eligible for reduced or free lunches, or for a waiver of student fees, is eligible for financial assistance toward the purchase of school uniforms. The Superintendent or designee shall develop a process for informing parents/guardians of the availability of financial assistance and a method to process financial requests.<sup>13</sup>

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<sup>6</sup> In 1969, the U.S. Supreme Court recognized that students enjoy First Amendment free speech rights in school but that schools have the authority to limit student speech that might reasonably be predicted to cause a material and substantial disruption or invasion of the rights of others. Tinker v. Des Moines Indep. Sch. Dist., 393 U.S. 503 (1969). The manner in which this ruling applies to uniform policies is still unsettled. See DePinto v. Bayonne Bd. of Ed., 514 F.Supp.2d 633 (D. N.J. 2007) (a school district was enjoined from disciplining elementary students who wore a button protesting the district's mandatory uniform policy). However, many decisions have upheld a compulsory uniform policy. See Blau v. Ft. Thomas Public Sch. Dist., 401 F.3d 381 (6th Cir. 2005); Canady v. Bossier Parish Sch. Bd., 240 F. 3d 437 (5th Cir 2001); Littlefield v. Forney Sch. Dist., 268 F.3d 275 (5th Cir. 2001); Jacobs v. Clark Cnty. Sch. Dist., 373 F.Supp.2d 1162 (D. Nev., 2005); Phoenix Elementary Sch. Dist. v. Green, 943 P. 2d 836 (Az.Ct. App. 1997); Vines v. Zion Sch. Dist., 2002 WL 58815 (N.D.Ill. 2002); Alwood v. Clark, 2005 WL 2001317 (S.D.Ill. 2005); Bear v. Fleming, 714 F.Supp.2d 972 (W.D. S.D. 2010) (requiring students to wear a cap and gown while receiving their diplomas is reasonably related to the school board's legitimate interest in maintaining order). **Before adopting a uniform policy, a board should discuss this issue with its attorney.**

<sup>7</sup> Omit *personal choice* if the district has a mandatory uniform policy.

<sup>8</sup> 105 ILCS 5/10-22.25b.

<sup>9</sup> Id.

<sup>10</sup> Id., amended by P.A. 102-360, ~~eff. 1-1-22~~ (*Jett Hawkins Law*). See f/n 1 in [sample policy 7:160, Student Appearance](#). If the board expanded upon the law's requirement of race, ethnicity, or hair texture, in policy 7:160, *Student Appearance*, amend number 4 as follows to align with it:

"Hairstyles, including hairstyles historically associated with race, ethnicity, ~~or~~ hair texture, or any other protected classes under Board policy 7:10, Equal Educational Opportunities, including but not limited to, protective hairstyles such as braids, locks, and twists."

<sup>11</sup> Id., amended by P.A. 103-463. See f/ns 1 & 3 in [sample policy 7:160, Student Appearance](#).

<sup>12</sup> Id. Remove this provision if a mandatory uniform policy is adopted with a provision allowing the parents/guardians to obtain an opt-out (see f/n 2).

<sup>13</sup> Id. State law requires the board to establish "criteria and procedures under which the board will accommodate the needs of or otherwise provide appropriate resources to assist a student from an indigent family."

No student shall be suspended or expelled from school, or receive a lowered academic grade, because of failing to comply with this policy. <sup>14</sup>

The Superintendent or designee shall develop incentives and positive reinforcement measures to encourage full compliance. <sup>15</sup>

LEGAL REF: 105 ILCS 5/2-3.25; and 5/10-22.25b.

CROSS REF: 4:140 (Waiver of Student Fees), 7:160 (Student Appearance), 7:190 (Student Behavior)

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<sup>14</sup> For those boards choosing a mandatory uniform policy with no opt-out provision, replace this sentence with the following:

Disciplinary action may be taken for failure to comply with this policy. Before initiating disciplinary action, a conference with the parent(s)/guardian(s) shall be requested to solicit cooperation and support.

<sup>15</sup> The following alternative takes the board into operational matters but it ensures that the nuts and bolts issues will be covered by administration:

The Superintendent or designee shall develop incentives and positive reinforcement measures to encourage full compliance and shall communicate information to students and parents/guardians concerning:

1. The uniform's description and its availability;
2. The requirements for jackets and outer garments;
3. Optional articles of attire, if any;
4. Compliance measures;
5. Methods to facilitate recycling of uniforms within the school community; and
6. Notice of uniform sales and lists of competitive prices from vendors of uniform articles.

## Students

### Student Behavior <sup>1</sup>

The goals and objectives of this policy are to provide effective discipline practices that: (1) ensure the safety and dignity of students and staff; (2) maintain a positive, weapons-free, and drug-free learning environment; (3) keep school property and the property of others secure; (4) address the causes of a student's misbehavior and provide opportunities for all individuals involved in an incident to participate in its resolution; and (5) teach students positive behavioral skills to become independent, self-disciplined citizens in the school community and society. <sup>2</sup>

### When and Where Conduct Rules Apply <sup>3</sup>

A student is subject to disciplinary action for engaging in prohibited student conduct, as described in the section with that name below, whenever the student's conduct is reasonably related to school or school activities, including, but not limited to:

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<sup>1</sup> All districts must have a policy on student discipline, including school searches and bullying prevention (105 ILCS 5/10-20.14); re-engagement of students returning from an exclusionary discipline or an alternative school (105 ILCS 5/10-22.6(b-25)); and corporal punishment (105 ILCS 5/24-24). See also 23 Ill.Admin.Code §1.280. See the Cross References for policies on searches and bullying. Each district must furnish a copy of the discipline policy to parents/guardians within 15 days after the beginning of the school year, or within 15 days after starting classes for a student who transfers into the district. 105 ILCS 5/10-20.14(a). The school board must require that each school inform its pupils of the discipline policy's contents. Id.

School boards, along with the parent-teacher advisory committee, must annually review their pupil discipline policies, those policies' implementation, and any other factors related to the safety of their schools, students, and staff. Id. For more information about the parent-teacher advisory committee, see 2:150, *Committees*. The parent-teacher advisory committee, in cooperation with local law enforcement agencies, must develop, with the school board, a reciprocal reporting system. 105 ILCS 5/10-20.14(b). See 7:190-AP3, *Guidelines for Reciprocal Reporting of Criminal Offenses Committed by Students*. School districts are encouraged to create memoranda of understanding that define law enforcement's role in schools. See 7:190-E3, *Memorandum of Understanding*.

Given the unique concerns facing school officials, school disciplinary codes are not required to be drafted as narrowly or with the same precision as criminal statutes. Bethel Sch. Dist. v. Fraser, 478 U.S. 675 (1986).

<sup>2</sup> The goals and objectives in this policy give the board a focus for monitoring it. This list can be deleted, replaced, or modified by the board. Data on student discipline is available at: [www.isbe.net/Pages/Expulsions-Suspensions-and-Truants-by-District.aspx](http://www.isbe.net/Pages/Expulsions-Suspensions-and-Truants-by-District.aspx).

See f/n 1 in sample policy 4:170, *Safety*, for information on the U.S. School Safety Clearinghouse website at: [www.SchoolSafety.gov](http://www.SchoolSafety.gov)/[www.schoolsafety.gov](http://www.schoolsafety.gov).

<sup>3</sup> Board policy should provide a jurisdictional statement telling students and staff the circumstances under which the district will take disciplinary action. Jurisdictional rules in board policy should generally be as broad as possible to give staff members authority to respond to unforeseen situations. Taking jurisdiction over off-campus misconduct generally survives the test of reasonableness when the misconduct has a direct nexus to the school. A countervailing interest concerns liability for off-campus student injuries, i.e., the greater the jurisdiction a district is willing to impose, the greater the scope of liability it may be assuming. Ultimately, a decision whether to discipline for off-campus misconduct requires a thorough factual inquiry to determine the degree of nexus and impact on the school. Consult the board attorney in these situations.

1. On, or within sight of, school grounds before, during, or after school hours or at any time;
2. Off school grounds at a school-sponsored activity or event, or any activity or event that bears a reasonable relationship to school;
3. Traveling to or from school or a school activity, function, or event; or
4. Anywhere, if the conduct interferes with, disrupts, or adversely affects the school environment, school operations, or an educational function, including, but not limited to, conduct that may reasonably be considered to: (a) be a threat or an attempted intimidation of a staff member; or (b) endanger the health or safety of students, staff, or school property. <sup>4</sup>

### Prohibited Student Conduct <sup>5</sup>

The school administration is authorized to discipline students for gross disobedience or misconduct, including but not limited to:

1. Using, possessing, distributing, purchasing, or selling tobacco or nicotine materials, including without limitation, electronic cigarettes. <sup>6</sup>

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A U.S. Supreme Court decision and many lower court decisions address disciplining a student for off-campus misconduct. See Mahanoy Area Sch. Dist. v. B.L., 141 S.Ct. 2038 (2021), discussed in f/n 3 of sample policy 7:240, *Conduct Code for Participants in Extracurricular Activities*; and J.S. v. Blue Mountain Sch. Dist., 650 F.3d 915 (3rd Cir. 2011), combined with Layshock v. Hermitage Sch. Dist., 650 F.3d 205 (3d Cir. 2011), cert. denied 565 U.S. 1156 (2012)(absent evidence that parodies of school personnel caused, or could cause, substantial disruption, school districts may not punish out-of-school expressive conduct, even if it is lewd, indecent, or offensive speech).

In contrast, the 7th Circuit Court of Appeals upheld a student’s expulsion for an article in an underground newspaper titled “So You Want to be a Hacker.” The article’s instructions for hacking into the school’s computers clearly interfered with the school’s operations. Boucher v. Sch. Bd. of the Sch. Dist. of Greenfield, 134 F.3d 821 (7th Cir. 1998). See also Wisniewski v. Bd. of Educ. of the Weedsport Central Sch. Dist., 494 F.3d 34 (2nd Cir. 2007), cert. denied 552 U.S. 1296 (2008), (holding a student’s transmission of an icon of a pistol with blood splattering and the words “Kill Mr. VanDer Molen” crossed the boundary of protected speech and posed a reasonably foreseeable risk that the icon would come to the attention of school authorities and materially and substantially disrupt the school).

Historically, schools have had more leeway in disciplining participants in athletics and extracurricular activities; however, the Mahanoy decision raises unresolved questions about the degree of leeway now afforded to school officials. See sample policy 7:240, *Conduct Code for Participants in Extracurricular Activities* at f/n 3 for further discussion.

A judge may transfer a student to another school for committing stalking or non-consensual sexual contact against another student, or for aiding and abetting such an act; the parents/guardians are responsible for transportation and other costs associated with the transfer. Stalking No Contact Order Act and the Civil No Contact Order Act, 740 ILCS 21/80 and 22/213. A school district is seldom notified when a transfer order is requested. When notified, school officials should immediately seek the board attorney’s advice concerning available options.

<sup>4</sup> The factual context will determine the appropriateness of taking jurisdiction. Contact the board attorney before disciplining a student for off-campus conduct. See Doe v. Superintendent of Schs. of Stoughton, 767 N.E.2d 1054 (Mass. 2002)(suspension for off-campus commission of a felony was upheld).

<sup>5</sup> Consult the board attorney for advice on deleting or modifying any of the items in this section on prohibited student conduct.

<sup>6</sup> 105 ILCS 5/10-20.5b prohibits use of tobacco on school property. Federal law prohibits smoking within schools by anyone. Pro-Children Act of ~~1992~~2004, 20 U.S.C. §~~608797~~1 et seq. Districts that fail to comply risk a civil penalty of up to \$1,000 per violation per day. 20 U.S.C. §~~6087973~~(f)(1). See 8:30, *Visitors to and Conduct on School Property*, for more information.

The U.S. Food and Drug Administration now regulates electronic cigarettes. 21 C.F.R. Parts 1100, 1140, and 1143, ~~amended by 81 Fed.Reg. 28973~~. An electronic or e-cigarette resembles a regular cigarette and contains a battery-operated heating element that turns a liquid into a mist for inhaling. The liquid may contain nicotine. E-cigarettes are sometimes referred to as e-cigs, vapes, e-hookahs, vape pens, and electronic nicotine delivery systems (ENDS), and they are generally involved in *vaping*. Vaping is the act of inhaling and exhaling the aerosol, often referred to as vapor that is produced by an e-cigarette or similar device. An e-cigarette resembles a cigarette and contains a battery-operated heating element that turns a liquid into a mist for inhaling. Some e-cigarettes do not look like tobacco products and are shaped like other objects, such as USB flash drives, and are more easily concealed.

2. Using, possessing, distributing, purchasing, or selling alcoholic beverages.<sup>7</sup> Students who are under the influence of an alcoholic beverage are not permitted to attend school or school functions and are treated as though they had alcohol in their possession.
3. Using, possessing, distributing, purchasing, selling, or offering for sale:
  - a. Any illegal drug or controlled substance, or cannabis (including marijuana, hashish, and medical cannabis unless the student is authorized to be administered a medical cannabis infused product under *Ashley's Law*).<sup>8</sup>
  - b. Any anabolic steroid unless it is being administered in accordance with a physician's or licensed practitioner's prescription.<sup>9</sup>
  - c. Any performance-enhancing substance on the Illinois High School Association's most current banned substance list unless administered in accordance with a physician's or licensed practitioner's prescription.<sup>10</sup>
  - d. Any prescription drug when not prescribed for the student by a physician or licensed practitioner, or when used in a manner inconsistent with the prescription or prescribing physician's or licensed practitioner's instructions. The use or possession of medical cannabis, even by a student for whom medical cannabis has been prescribed, is prohibited

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Information and resources are available at:

[www.isbe.net/Pages/School-Health-Issues.aspx](http://www.isbe.net/Pages/School-Health-Issues.aspx)

[www.fda.gov/tobacco-products](http://www.fda.gov/tobacco-products)~~www.fda.gov/tobacco-products/default.htm~~

[www.cdc.gov/tobacco/basic\\_information/e-cigarettes/index.htm](http://www.cdc.gov/tobacco/basic_information/e-cigarettes/index.htm)

[www.dph.illinois.gov/topics-services/prevention-wellness/tobacco/e-cigarettes-and-vapes](http://www.dph.illinois.gov/topics-services/prevention-wellness/tobacco/e-cigarettes-and-vapes)

[www.drugabuse.gov/drugs-abuse/tobacconicotine-vaping](http://www.drugabuse.gov/drugs-abuse/tobacconicotine-vaping)

<sup>7</sup> *Alcoholic beverages* are defined in 235 ILCS 5/1-3.01 to 3.05.

<sup>8</sup> *Controlled substance* is defined in 720 ILCS 570/102(f); *cannabis* is defined in 720 ILCS 550/3(a) and in 410 ILCS 705/1-10, ~~added by P.A. 101-27~~. Either spelling, *marihuana* or *marijuana*, is correct; however, *marijuana* is more common. See f/n 11 for a discussion of medical cannabis and *Ashley's Law*.

<sup>9</sup> *Anabolic steroid* is defined in 720 ILCS 570/102(c-1).

<sup>10</sup> See sample policies 7:240, *Conduct Code for Participants in Extracurricular Activities*, and 7:300, *Extracurricular Athletics*.

unless the student is authorized to be administered a medical cannabis infused product under Ashley’s Law. <sup>11</sup>

- e. Any inhalant, regardless of whether it contains an illegal drug or controlled substance: (a) that a student believes is, or represents to be capable of, causing intoxication, hallucination, excitement, or dulling of the brain or nervous system; or (b) about which the student engaged in behavior that would lead a reasonable person to believe that the student intended the inhalant to cause intoxication, hallucination, excitement, or dulling of the brain or nervous system. The prohibition in this section does not apply to a student’s use of asthma or other legally prescribed inhalant medications.
- f. Any substance inhaled, injected, smoked, consumed, or otherwise ingested or absorbed with the intention of causing a physiological or psychological change in the body, including without limitation, pure caffeine in tablet or powdered form. <sup>12</sup>
- g. *Look-alike* or counterfeit drugs, including a substance that is not prohibited by this policy, but one: (a) that a student believes to be, or represents to be, an illegal drug, controlled substance, or other substance that is prohibited by this policy; or (b) about which a student engaged in behavior that would lead a reasonable person to believe that the student expressly or impliedly represented to be an illegal drug, controlled substance, or other substance that is prohibited by this policy. <sup>13</sup>

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<sup>11</sup> To legally use medical cannabis, an individual must first become a *registered qualifying patient*. The use of cannabis by a *registered qualifying patient* is permitted only in accordance with the Compassionate Use of Medical Cannabis Program. 410 ILCS 130/~~amended by P.A. 101-363, scheduled to be repealed on 7-1-20~~. There are many situations in which no one, even a *registered qualifying patient*, may possess or use cannabis. This includes in a school bus or on the grounds of any preschool, or primary or secondary school unless the student meets the requirements of 105 ILCS 5/22-33, a/k/a *Ashley’s Law*. 410 ILCS 130/30(a)(2) and (3),~~amended by P.A. 101-363, scheduled to be repealed on 7-1-20~~. *Ashley’s Law* provides that school districts “shall authorize a parent or guardian or any other individual registered with the Department of Public Health as a designated caregiver of a student who is a registered qualifying patient to administer a medical cannabis infused product to the student on the premises of the child’s school or on the child’s school bus if both the student (as a registered qualifying patient) and the parent or guardian or other individual (as a registered designated caregiver) have been issued registry identification cards under the Compassionate Use of Medical Cannabis Program Act.” 105 ILCS 5/22-33(b),~~amended by P.A. 101-363~~. Once the product is administered, the designated caregiver must remove the product from the school premises/bus. Id. 105 ILCS 5/22-33(b-5),~~added by 101-370~~, allows a properly trained school nurse or administrator to administer medical cannabis infused products to a student while at school, a school-sponsored activity, or before/after normal school activities, including while the student is in before-school or after-school care on school-operated property or while being transported on a school bus. The product may not be administered in a manner that would (in the school or district’s opinion) create a disruption or expose other students to the product, and schools are not required to authorize use of the product if the school or district would lose federal funding as a result. 105 ILCS 5/22-33(c). For more ~~information discussion~~, see f/ns ~~21-315~~ in sample policy 7:270, *Administering Medicines to Students*. Contact the board attorney for advice concerning medical cannabis, including whether a federal or State law requires the district to accommodate a student who is a *registered qualifying patient*. See Americans with Disabilities Act of 1990, 42 U.S.C. §12101 et seq.; Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C. §1400 et seq.; Rehabilitation Act of 1973, Section 504, 29 U.S.C. §794; 105 ILCS 5/14-1.01 et seq., 5/14-7.02, and 5/14-7.02b; and 23 Ill.Admin.Code Part 226.

<sup>12</sup> The Powdered Caffeine Control and Education Act states: “No person may sell, offer for sale, give away, or provide free samples of powdered pure caffeine to any person under age 18 located within the State or to any person under age 18 making the purchase from within the State.” A limited exception to this prohibition exists for “the sale of any powdered pure caffeine product that receives explicit approval as safe and effective for its intended use under the federal Food, Drug, and Cosmetic Act or is lawfully marketed under an over-the-counter monograph issued by the United States Food and Drug Administration.” 410 ILCS 647/20.

<sup>13</sup> *Counterfeit* and *look-alike substances* are defined in 720 ILCS 570/102(g) and (y). This provision is broader because it would apply, for example, if a student represents a powdered vitamin to be pure caffeine – pure caffeine is prohibited on campus even though it is a legal substance. Look-alike drugs should be defined; an unpublished Ill. appellate decision in 2000 found a policy prohibiting possession of *look-alikes* had vagueness problems.



- h. Drug paraphernalia, including devices that are or can be used to: (a) ingest, inhale, or inject cannabis or controlled substances into the body; and (b) grow, process, store, or conceal cannabis or controlled substances. <sup>14</sup>

Students who are under the influence of any prohibited substance are not permitted to attend school or school functions and are treated as though they had the prohibited substance, as applicable, in their possession.

4. Using, possessing, controlling, or transferring a *weapon* as that term is defined in the **Weapons** section of this policy, or violating the **Weapons** section of this policy. <sup>15</sup>
5. Using or possessing an electronic paging device. Using a cellular telephone, video recording device, personal digital assistant (PDA), or other electronic device in any manner that disrupts the educational environment or violates the rights of others, including using the device to take photographs in locker rooms or bathrooms, cheat, or otherwise violate student conduct rules. Prohibited conduct specifically includes, without limitation, creating, sending, sharing, viewing, receiving, or possessing an indecent visual depiction of oneself or another person through the use of a computer, electronic communication device, or cellular phone. Unless otherwise banned under this policy or by the Building Principal, all electronic devices must be kept powered-off or silenced and out-of-sight<sup>16</sup> during the regular school day unless: (a) the supervising teacher grants permission; (b) use of the device is provided in a student's individualized education program (IEP); (c) it is used during the student's lunch period, or (d) it is needed in an emergency that threatens the safety of students, staff, or other individuals. <sup>17</sup>
6. Using or possessing a laser pointer unless under a staff member's direct supervision and in the context of instruction.
7. Disobeying rules of student conduct or directives from staff members or school officials. Examples of disobeying staff directives include refusing a District staff member's request to stop, present school identification, or submit to a search.
8. Engaging in academic dishonesty, including cheating, intentionally plagiarizing, using a writing service and/or generative artificial intelligence technology in place of original work

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<sup>14</sup> *Drug paraphernalia* is defined in 720 ILCS 600/2(d). Contact the board attorney for advice concerning a student who is a *registered qualifying patient*, as explained in f/n 11.

<sup>15</sup> This language is broader than the **Weapons** section of this policy. The **Weapons** section contains the statutorily required punishment for "a student who is determined to have brought" a weapon to school along with the statutory definition of *weapon*. 105 ILCS 5/10-22.6(d). The language in item #4 is broader because it prohibits "using, possessing, controlling, or transferring" a weapon in addition to violating the **Weapons** section. See the footnotes in the **Weapons** section for a discussion of the Firearm Concealed Carry Act's provisions.

<sup>16</sup> Delete "and out-of-sight" if the district wants to provide greater flexibility.

<sup>17</sup> 105 ILCS 5/10-21.10 prohibits student possession of electronic paging devices, but State law leaves to local boards the discretion whether to prohibit student possession of cellular phones. 105 ILCS 5/10-20.28. The misuse of camera phones can seriously invade a student's privacy. A board wanting a sweeping prohibition may use the following alternative for item #5:

Using or possessing a cellular telephone, electronic signaling device, two-way radio, video recording device, and/or other telecommunication device, unless authorized and approved by the Building Principal.

Operating transmitters designed to jam or block wireless communications violates the federal Communications Act of 1934. 47 U.S.C. §§301, 302a, and 333. Fines are as high as \$10,000 for each violation and/or imprisonment, and the device may also be seized. 47 U.S.C. §§501-510.

Making a video recording or live video transmission of another person without their consent in a restroom, locker room, or changing room is a Class 4 felony. 720 ILCS 5/26-4. A minor who distributes or disseminates an indecent visual depiction of another minor through the use of a computer or electronic communication device may be subject to adjudication as a minor in need of supervision. 705 ILCS 405/3-40.

- unless specifically authorized by staff,<sup>18</sup> wrongfully giving or receiving help during an academic examination, altering report cards, and wrongfully obtaining test copies or scores.
9. Engaging in hazing or any kind of bullying or aggressive behavior that does physical or psychological harm to a staff person or another student, or urging other students to engage in such conduct. Prohibited conduct specifically includes, without limitation, any use of violence, intimidation, force, noise, coercion, threats, stalking, harassment, sexual harassment, public humiliation, theft or destruction of property, retaliation, hazing, bullying, bullying using a school computer or a school computer network, or other comparable conduct. <sup>19</sup>
  10. Engaging in any sexual activity, including without limitation, offensive touching, sexual harassment, indecent exposure (including mooning), and sexual assault. This does not include the non-disruptive: (a) expression of gender or sexual orientation or preference, or (b) display of affection during non-instructional time.
  11. Teen dating violence, as described in Board policy 7:185, *Teen Dating Violence Prohibited*. <sup>20</sup>
  12. Causing or attempting to cause damage to, or stealing or attempting to steal, school property or another person's personal property. <sup>21</sup>
  13. Entering school property or a school facility without proper authorization.

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<sup>18</sup> Optional. Generative artificial intelligence (AI) is a broad label used to describe any AI system that generates, with varying levels of autonomy, content such as complex text, images, audio, or video. When not used for academic dishonesty purposes, generative AI tools may present innovative learning opportunities for students and teaching opportunities for educators. For further information, see the International Society for Technology in Education webpage on AI exploration for educators at: [www.iste.org/areas-of-focus/AI-in-education](http://www.iste.org/areas-of-focus/AI-in-education).

<sup>19</sup> All districts must have a policy on bullying. 105 ILCS 5/27-23.7(d), amended by P.A. 103-47. Sample policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*, contains the statutory definition of bullying. Districts must also have an age-appropriate policy on sexual harassment. 105 ILCS 5/10-20.69, added by P.A. 101-418. See sample policy 7:20, *Harassment of Students Prohibited*, and its f/n 7 for further detail.

105 ILCS 5/10-20.14 requires boards, in consultation with their parent-teacher advisory committees and other community-based organizations, to include provisions in their student discipline policy to address aggressive behavior, including bullying. These provisions must include procedures for notifying a student's parents/guardians about his/her aggressive behavior and early intervention procedures based upon available community-based and district resources. See 7:190-E1, *Aggressive Behavior Reporting Letter and Form*.

Suspending students for hazing was upheld in *Gendelman v. Glenbrook North High Sch. and Northfield Twp. Sch. Dist.*, 225, 2003 WL 21209880 (N.D.Ill. 2003). This decision may have been legislatively overturned by amending 105 ILCS 5/10-20.14.

The failure of a school official (including any administrator, teacher, counselor, support staff, or coach) to report hazing is a Class B misdemeanor. 720 ILCS 5/12C-50.1.

A person commits a felony hate crime when, by reason of the actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, or national origin of another individual or group of individuals, regardless of the existence of any other motivating factor or factors, he or she commits assault, battery, aggravated assault, intimidation, stalking, cyberstalking, misdemeanor theft, criminal trespass to residence, misdemeanor criminal damage to property, criminal trespass to vehicle, criminal trespass to real property, mob action, disorderly conduct, transmission of obscene message, harassment by telephone, or harassment through electronic communications as these crimes are defined in the Criminal Code. 720 ILCS 5/12-7.1. The penalty is heightened when the offense is committed in a school or administrative facility.

720 ILCS 5/26-1(a)(3.5) and (b) make transmitting a threat of violence, death, or bodily harm directed against persons at a school, school function, or school event, whether or not school is in session, or causing such a threat to be transmitted, a Class 4 felony.

<sup>20</sup> All school boards must have a policy on prohibited teen dating violence. 105 ILCS 110/3.10. Verify that the board adopted the policy listed and amend its title in this policy, if necessary.

<sup>21</sup> 720 ILCS 5/26-1(a)(3.5) and (b) make threatening to destroy a school building or school property, whether or not school is in session, or causing such a threat to be transmitted, a Class 4 felony.

14. In the absence of a reasonable belief that an emergency exists, calling emergency responders (such as calling 911); signaling or setting off alarms or signals indicating the presence of an emergency; or indicating the presence of a bomb or explosive device on school grounds, school bus, or at any school activity.
15. Being absent without a recognized excuse; State law and School Board policy regarding truancy control will be used with chronic and habitual truants. <sup>22</sup>
16. Being involved with any public school fraternity, sorority, or secret society, by: (a) being a member; (b) promising to join; (c) pledging to become a member; or (d) soliciting any other person to join, promise to join, or be pledged to become a member. <sup>23</sup>
17. Being involved in gangs or gang-related activities, including displaying gang symbols or paraphernalia. <sup>24</sup>
18. Violating any criminal law, including but not limited to, assault, battery, arson, theft, gambling, eavesdropping, vandalism, and hazing.
19. Making an explicit threat on an Internet website against a school employee, a student, or any school-related personnel if the Internet website through which the threat was made is a site that was accessible within the school at the time the threat was made or was available to third parties who worked or studied within the school grounds at the time the threat was made, and the threat could be reasonably interpreted as threatening to the safety and security of the threatened individual because of his or her duties or employment status or status as a student inside the school. <sup>25</sup>
20. Operating an unmanned aircraft system (UAS) or drone for any purpose on school grounds or at any school event unless granted permission by the Superintendent or designee. <sup>26</sup>
21. Engaging in any activity, on or off campus, that interferes with, disrupts, or adversely affects the school environment, school operations, or an educational function, including but not limited to, conduct that may reasonably be considered to: (a) be a threat or an attempted intimidation of a staff member; or (b) endanger the health or safety of students, staff, or school property. <sup>27</sup>

For purposes of this policy, the term possession includes having control, custody, or care, currently or in the past, of an object or substance, including situations in which the item is: (a) on the student's

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<sup>22</sup> 105 ILCS 5/26-2a, amended by P.A.s ~~102-406~~, 102-266, and 102-321, and 102-981; 5/26-9; and 5/26-12, ~~amended by P.A. 101-81~~. See sample policies 6:110, *Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program*, and 7:70, *Attendance and Truancy*.

<sup>23</sup> State law requires schools to suspend or expel any student who engages in this activity. 105 ILCS 5/31-3.

<sup>24</sup> See *Kelly v. Bd. of Educ. of McHenry Cmty. High Sch. Dist. 156*, 2007 WL 114300 (N.D.Ill. 2007) (upheld student's expulsion for drawing gang symbols while at school; testimony that the danger posed by gang signs and the presence of gangs at school supported the board's insistence on strict enforcement of board policy prohibiting gang related behavior and made expulsion a proper remedy).

<sup>25</sup> 740 ILCS 147/15 *et seq.* allows a school district to bring a civil suit against a gang, gang officers, or gang members for losses it suffers due to their criminal activity.

<sup>26</sup> This statement of misconduct restates 105 ILCS 5/10-22.6(d-5). The following alternative provides a shorter statement but will require the administrator to check the statute before imposing discipline based on it:

Making an explicit threat on an Internet website against a school, employee, or any school-related personnel under circumstances described in 105 ILCS 5/10-22.6(d-5).

<sup>26</sup> For more information regarding unmanned aircraft systems, see [www.faa.gov/uas/](http://www.faa.gov/uas/).

<sup>27</sup> A catchall provision, e.g., this one, gives staff members authority to respond to unforeseen situations.

If the board adopts a mandatory uniform policy (see [sample policy 7:165, School Uniforms](#)), add the following item to the list as number 22: "Failing to comply with the mandatory uniform policy, but only after repeated attempts to secure compliance, such as conferences with parents/guardians, have been unsuccessful."

person; (b) contained in another item belonging to, or under the control of, the student, such as in the student's clothing, backpack, or automobile; (c) in a school's student locker, desk, or other school property; or (d) at any location on school property or at a school-sponsored event. <sup>28</sup>

Efforts, including the use of positive interventions and supports, shall be made to deter students, while at school or a school-related event, from engaging in aggressive behavior that may reasonably produce physical or psychological harm to someone else. The Superintendent or designee shall ensure that the parent/guardian of a student who engages in aggressive behavior is notified of the incident.<sup>29</sup> The failure to provide such notification does not limit the Board's authority to impose discipline, including suspension or expulsion, for such behavior.

No disciplinary action shall be taken against any student that is based totally or in part on the refusal of the student's parent/guardian to administer or consent to the administration of psychotropic or psychostimulant medication to the student. <sup>30</sup>

### Disciplinary Measures <sup>31</sup>

School officials shall limit the number and duration of expulsions and out-of-school suspensions to the greatest extent practicable, and, where practicable and reasonable, shall consider forms of non-exclusionary discipline before using out-of-school suspensions or expulsions.<sup>32</sup> School personnel shall

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<sup>28</sup> Possession should be defined to avoid vagueness problems.

<sup>29</sup> See f/n 198.

<sup>30</sup> Mandated by 105 ILCS 5/10-20.36.

<sup>31</sup> **IMPORTANT:** The practice of suspending or expelling a student based on the number of accumulated disciplinary infractions is illegal under 105 ILCS 5/10-22.6. This includes a system of assigning points to specific infractions and then tallying the points a student receives over a period of time to determine a disciplinary exclusion from school.

Before amendments to 105 ILCS 5/10-22.6, courts used the following factors to determine if a board abused its discretion when it expelled a student: (1) the egregiousness of the student's conduct; (2) the record of the student's past conduct; (3) the likelihood that such conduct will affect the delivery of educational services to other students; (4) the severity of the punishment; and (5) the intent of the child. Robinson v. Oak Park, 213 Ill.App.3d 77 (1st Dist. 1991); Wilson ex rel. Geiger v. Hinsdale Elementary Dist., 349 Ill.App.3d 243 (2nd Dist. 2004). Whether courts will continue to use these factors is yet to be determined. The amendments to 105 ILCS 5/10-22.6 call into question the validity of relying on past misconduct in suspension or expulsion decisions.

Aside from procedural due process protection, students have a constitutional substantive due process right. This right protects them from an abuse of government power which "shocks the conscience." While the scope of substantive due process is very limited, it is available to students who believe they were subject to arbitrary and excessive discipline. Generally, however, school officials need not fear being found guilty of a substantive due process violation. Federal courts are loath to second-guess school officials. See Tun v. Whitticker, 398 F.3d 899 (7th Cir. 2005) (expulsion did not amount to a substantive due process violation because it fell short of the required *shocks the conscience* standard).

<sup>32</sup> 105 ILCS 5/10-22.6(b-5). In addition, -subsection c-5 states, "[s]chool districts must make reasonable efforts to provide ongoing professional development to teachers, administrators, school board members, school resource officers, and staff on the adverse consequences of school exclusion and justice-system involvement, effective classroom management strategies, culturally responsive discipline, the appropriate and available supportive services for the promotion of student attendance and engagement, and developmentally appropriate disciplinary methods that promote positive and healthy school climates." 105 ILCS 5/10-22.6(c-5).

not advise or encourage students to drop out voluntarily due to behavioral or academic difficulties.<sup>33</sup> Potential disciplinary measures include, without limitation, any of the following:<sup>34</sup>

1. Notifying parent(s)/guardian(s).
2. Disciplinary conference.
3. Withholding of privileges.
4. Temporary removal from the classroom.
5. Return of property or restitution for lost, stolen, or damaged property.<sup>35</sup>
6. In-school suspension. The Building Principal or designee shall ensure that the student is properly supervised.<sup>36</sup>
7. After-school study or Saturday study<sup>37</sup> provided the student's parent/guardian has been notified. If transportation arrangements cannot be agreed upon, an alternative disciplinary measure must be used. The student must be supervised by the detaining teacher or the Building Principal or designee.
8. Community service with local public and nonprofit agencies that enhances community efforts to meet human, educational, environmental, or public safety needs.<sup>38</sup> The District will not provide transportation. School administration shall use this option only as an alternative to another disciplinary measure, giving the student and/or parent/guardian the choice.
9. Seizure of contraband; confiscation and temporary retention of personal property that was used to violate this policy or school disciplinary rules.<sup>39</sup>
10. Suspension of bus riding privileges in accordance with Board policy 7:220, *Bus Conduct*.<sup>40</sup>
11. Out-of-school suspension from school and all school activities in accordance with Board policy 7:200, *Suspension Procedures*.<sup>41</sup> A student who has been suspended may also be restricted from being on school grounds and at school activities.<sup>42</sup>

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<sup>33</sup> 105 ILCS 5/10-22.6(h).

<sup>34</sup> Most school attorneys advise against using a grade reduction as a disciplinary measure. A decision upholding such a policy is *Knight v. Bd. of Educ.*, 38 Ill.App.3d 603 (4th Dist. 1976). A decision striking one is *Smith v. Sch. City of Hobart*, 811 F.Supp. 391 (N.D.Ind. 1993) (grade reduction policy requiring 9-week grades to be reduced 4% for each day of a suspension was found unconstitutional).

<sup>35</sup> While restitution is permitted, issuing a fine or fee as a disciplinary consequence is not permitted. 105 ILCS 5/10-22.6(i). Possible parental liability for damages under the Parental Responsibility Law (740 ILCS 115/5) is discussed in ~~footnote/n 2~~ in sample policy 7:170, *Vandalism*.

<sup>36</sup> An in-school suspension program may focus on promoting non-violent conflict resolution and positive interaction with other students and school personnel, and districts may employ a school social worker or a licensed mental health professional to oversee in-school suspension programs. 105 ILCS 5/10-22.6(l). Providing programming during in-school suspensions is not required, however providing such programming will help distinguish them from exclusionary suspensions. See f/n ~~34~~ in sample policy 5:230, *Maintaining Student Discipline*, for further discussion of in-school suspension programs.

<sup>37</sup> Teachers may not be required to teach on Saturdays. 105 ILCS 5/24-2.

<sup>38</sup> See *Herndon v. Chapel Hill-Carrboro City Bd.*, 89 F.3d 174 (4th Cir. 1996) (upheld policy requiring students to complete community service in order to graduate).

<sup>39</sup> Consult the board attorney for advice concerning confiscated devices. There is no binding Ill. court decision regarding school personnel seizing and retaining a student's property. The Supreme Court of Arkansas held that a teacher and principal did not violate a student's state or federal rights when they confiscated and retained a student's cell phone for two weeks for violating school rules on cell phones. *Koch v. Adams*, 361 S.W.3d 817 (Ark. 2010).

<sup>40</sup> 105 ILCS 5/10-22.6(b) and (b-30).

<sup>41</sup> A suspension may be imposed in only limited situations that vary according to the suspension's length. 105 ILCS 5/10-22.6(b-15). This is explained in sample board policy 7:200, *Suspension Procedures*, and its footnotes.

<sup>42</sup> This sentence is optional. A board may make this mandatory by replacing "may also be" with "shall also be."

12. Expulsion from school and all school activities for a definite time period not to exceed two calendar years in accordance with Board policy 7:210, *Expulsion Procedures*.<sup>43</sup> A student who has been expelled may also be restricted from being on school grounds and at school activities.<sup>44</sup>
13. Transfer to an alternative program if the student is expelled or otherwise qualifies for the transfer under State law. The transfer shall be in the manner provided in Article 13A or 13B of the School Code.<sup>45</sup>
14. Notifying juvenile authorities or other law enforcement whenever the conduct involves criminal activity, including but not limited to, illegal drugs (controlled substances), look-alikes, alcohol, or weapons or in other circumstances as authorized by the reciprocal reporting agreement between the District and local law enforcement agencies.<sup>46</sup>

The above list of disciplinary measures is a range of options that will not always be applicable in every case. In some circumstances, it may not be possible to avoid suspending or expelling a student because behavioral interventions, other than a suspension and expulsion, will not be appropriate and available,

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<sup>43</sup> An expulsion may be imposed in only limited situations. 105 ILCS 5/10-22.6(b-20). This is explained in sample policy 7:210, *Expulsion Procedures*, and its footnotes.

105 ILCS 5/10-22.6(d) permits expulsion for a definite period of time not to exceed two calendar years. School officials must document whether other interventions were attempted or whether it was determined that there were no other appropriate and available interventions.

<sup>44</sup> This sentence is optional. A board may make this mandatory by replacing “may also be” with “shall also be.”

<sup>45</sup> 105 ILCS 5/10-22.6(a) and (b). Subsection 10-22.6(b) uses the phrase “is suspended in excess of 20 school days” even though a 20-consecutive day suspension should be treated as an expulsion. *Goss v. Lopez*, 419 U.S. 565 (1975). An alternative program is probably available to a student who is suspended for 11 to 20 consecutive days because that student is technically expelled and, as such, qualifies under subsection (a) of Section 10-22.6. Contact the board attorney if the district wants to interpret the statute as referring to *cumulative* school days so that it can transfer a student to an alternative program upon his or her suspension in excess of 20 *cumulative* school days.

[105 ILCS 5/13A, amended by P.A. 103-473, a/k/a Safe Schools Law, governs the transfer of disruptive students, defined to include suspension- or expulsion-eligible students in grades 6-12, to an alternative school program. See sample administrative procedure 7:190-AP9, Administrative Transfer to Regional Safe School Program, and the Ill. State Board of Education \(ISBE\) regional safe schools program webpage at: www.isbe.net/Pages/Regional-Safe-Schools-Program.aspx. 105 ILCS 5/13B governs the transfer of students to an alternative learning opportunities program. See ISBE's alternative learning opportunities program webpage at: www.isbe.net/Pages/Special-Education-Alternative-Learning-Opportunities-Programs.aspx.](#)

Contact the board attorney regarding the necessary due process procedures before imposing a disciplinary transfer to an alternative school. The court in *Leak v. Rich Twp. High Sch. Dist. 227* (397 Ill.Dec. 90 (1st Dist. 2015)), held that placement in an alternative school is tantamount to an expulsion. Thus, according to dicta in this decision, districts must follow expulsion procedures before a student is transferred to an alternative school. Schools may still reach agreements with parents/guardians to transfer students to such schools without completing the expulsion procedures.

The alternative program may not deny the transfer on the basis of the suspension or expulsion, except in cases in which the transfer is deemed to cause a threat to the safety of students or staff in the alternative program.

<sup>46</sup> 105 ILCS 5/22-88, ~~added by P.A. 101-478 and~~ amended by P.A.s 102-197 and 102-558. See sample policy 7:150, *Agency and Police Interviews*.

and the only reasonable and practical way to resolve the threat and/or address the disruption is a suspension or expulsion.<sup>47</sup>

Corporal punishment is prohibited. *Corporal punishment* is defined as slapping, paddling, or prolonged maintenance of students in physically painful positions, or intentional infliction of bodily harm. Corporal punishment does not include reasonable force as needed to maintain safety for students, staff, or other persons, or for the purpose of self-defense or defense of property.<sup>48</sup>

#### Isolated Time Out, Time Out, and Physical Restraint<sup>49</sup>

Neither isolated time out, time out, nor physical restraint shall be used to discipline or punish a student. These methods are only authorized for use as permitted in 105 ILCS 5/10-20.33, State Board of Education rules (23 Ill.Admin.Code §§ 1.280, 1.285), and the District's procedure(s).

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<sup>47</sup> **Note:** Districts that receive early childhood block grant funding (authorized by 105 ILCS 5/1C-2 of the School Code) are prohibited from expelling children from their early childhood programs. 105 ILCS 5/2-3.71(a)(7) and 105 ILCS 5/10-22.6(k). A district may, however, transition a child to a new program if: (1) it has documented evidence that all available interventions and supports recommended by a qualified professional have been exhausted; (2) the program determines that transitioning a child is necessary for the well-being of the child or his or her peers and staff; and (3) the current and pending programs create a transition plan for the child with parent or legal guardian permission. 105 ILCS 5/2-3.71(a)(7)(C). A district may temporarily remove a child from attendance in the group setting in the case of a serious safety threat to a child or others, or in the case of possession of a weapon as described in 105 ILCS 5/10-22.6(d), but it must then begin the process of documenting interventions and supports as outlined in the law. 105 ILCS 5/2-3.71(a)(7)(E). ~~III. State Board of Education (ISBE) rules implementing these new requirements are at 23 Ill.Admin.Code §§ 235.300-235.340. As of PRESS Issue 104 (June 2020), the ISBE forms required to document steps taken in accordance with these rules were being developed and projected to be available in late summer 2020 at: [www.isbe.net/Pages/Early-Childhood.aspx](http://www.isbe.net/Pages/Early-Childhood.aspx). For guidance on behavior support and transition plans, including links to ISBE Form 37-50A, Early Childhood Block Grant (ECBG) Program Transition Plan, and ISBE Form 37-50B, Early Childhood Block Grant (ECBG) Behavior Support Plan, see ISBE's Frequently Asked Questions: Behavior Support and Program Transition (March 2021) at: [www.isbe.net/Documents/EC-FAQ-Behavior-Transition-Plan.pdf](http://www.isbe.net/Documents/EC-FAQ-Behavior-Transition-Plan.pdf).~~ **Consult the board attorney for advice to ensure compliance with ISBE rules.** Compliance with this law does not relieve a district of its obligations to also comply with the Individuals with Disabilities Education Improvement Act of 2004 when disciplining students with disabilities. For further information, see sample policy 7:230, *Misconduct by Students with Disabilities*. For districts that receive early childhood block grant funding, add the following:

Students enrolled in the District's State-funded preschool program(s) may be temporarily removed or transitioned to a new program in accordance with federal and State law. State law prohibits the expulsion of students from the program(s).

If this language is inserted, add 105 ILCS 5/2-3.71(a)(7) to the Legal References for this policy.

<sup>48</sup> This paragraph paraphrases 105 ILCS 5/24-24.

<sup>49</sup> Isolated time out, time out, or physical restraint may be used by staff members **only if** their use is authorized by policy and administrative procedure. 105 ILCS 5/2-3.130, ~~and 5/10-20.33, both amended by P.A. 102-339, and; 105 ILCS 5/24-24;~~ 23 Ill.Admin.Code §§1.280(c) and 1.285. See 7:190-AP4, *Use of Isolated Time Out, Time Out, and Physical Restraint*. **The sample policy allows the use of isolated time out, time out, and physical restraint pursuant only to the conditions allowed in the School Code and ISBE rules.** State statute and ISBE rules contain complex restrictions on the use of isolated time out, time out, and physical restraint. 105 ILCS 5/2-3.130 and 5/10-20.33, ~~both~~ amended by P.A. 102-339; 105 ILCS 5/24-24; 23 Ill.Admin.Code §§1.280(c) and 1.285. According to the ISBE rule, isolated time out, time out, and physical restraints are allowed only if a board authorizes their use in a policy containing the numerous components identified in the rule. To comply with ISBE's rule, a board must also incorporate by reference the district's procedure, i.e., 7:190-AP4, *Use of Isolated Time Out, Time Out, and Physical Restraint*. By doing this, the policy includes the district's procedure. **For a board that wants to prohibit the use of isolated time out, time out, and physical restraint** (1) replace the contents of this subhead with "The district prohibits the use of isolated time out, time out, and physical restraint, as defined in 105 ILCS 5/10-20.33."; (2) amend the Legal References as follows "23 Ill.Admin.Code §§1.280, ~~1.285,~~" and (3) delete "Incorporated by Reference: 7:190-AP4 (Use of Isolated Time Out, Time Out, and Physical Restraint)."

## Weapons <sup>50</sup>

A student who is determined to have brought one of the following objects to school, any school-sponsored activity or event, or any activity or event that bears a reasonable relationship to school shall be expelled for a period of at least one calendar year but not more than two calendar years:

1. A *firearm*, meaning any gun, rifle, shotgun, or weapon as defined by Section 921 of Title 18 of the United States Code (18 U.S.C. § 921), firearm as defined in Section 1.1 of the Firearm Owners Identification Card Act (430 ILCS 65/), or firearm as defined in Section 24-1 of the Criminal Code of ~~1961~~2012 (720 ILCS 5/24-1).
2. A knife, brass knuckles, or other knuckle weapon regardless of its composition, a billy club, or any other object if used or attempted to be used to cause bodily harm, including *look-alikes* of any *firearm* as defined above.

The expulsion requirement under either paragraph one or two above may be modified by the Superintendent, and the Superintendent's determination may be modified by the Board on a case-by-case basis. The Superintendent or designee may grant an exception to this policy, upon the prior request of an adult supervisor, for students in theatre, cooking, ROTC, martial arts, and similar programs, whether or not school-sponsored, provided the item is not equipped, nor intended, to do bodily harm.<sup>51</sup>

This policy's prohibitions concerning weapons apply regardless of whether: (1) a student is licensed to carry a concealed firearm, or (2) the Board permits visitors, who are licensed to carry a concealed firearm, to store a firearm in a locked vehicle in a school parking area. <sup>52</sup>

## Re-Engagement of Returning Students <sup>53</sup>

The Superintendent or designee shall maintain a process to facilitate the re-engagement of students who are returning from an out-of-school suspension, expulsion, or an alternative school setting. The goal of re-engagement shall be to support the student's ability to be successful in school following a period of

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<sup>50</sup> This section paraphrases 105 ILCS 5/10-22.6(d) and contains the statutorily required punishment for bringing a weapon to school along with the statutory definition of *weapon*. When preparing for a due process hearing, a principal needs to use the applicable State and federal law definitions of *firearm* – not just the School Code.

While subsection 105 ILCS 5/10-22.6(b-10) explicitly forbids zero tolerance policies, it provides an exception for those zero tolerance policies established by State or federal law, which includes weapons in school. Section 10-22.6(d) provides that a student who brings a weapon to school, as defined in the section, “shall be expelled for a period not less than one year,” unless modified by the superintendent or board. The federal Gun-Free Schools Act (20 U.S.C. §7961 et seq.) provides for at least a one year expulsion for students who bring firearms to school. As directed by 20 U.S.C. §7961(b)(1), 105 ILCS 5/10-22.6(d), the superintendent and the board may modify that consequence; however, the superintendent/board may decline to exercise that discretion and instead impose the maximum penalty authorized by law. Analyzing the student's circumstances on a case-by-case basis may avoid a judicial finding that an expulsion is too severe. See Washington v. Smith, 248 Ill.App.3d 534 (1st Dist. 1993).

Item #4 in the **Prohibited Student Conduct** section is broader because it prohibits “using, possessing, controlling, or transferring” a weapon in addition to violating the **Weapons** section.

<sup>51</sup> Optional.

<sup>52</sup> The Firearm Concealed Carry Act permits a properly licensed individual to carry a concealed firearm within a vehicle into a school parking area and store it in a locked vehicle out of plain view. 430 ILCS 66/65(b). The federal Gun-Free Schools Act has a similar provision. 20 U.S.C. §7961(g). The School Code, however, contains no similar exception to the ban on firearms at schools. Contact the board attorney before permitting students to store their firearms in their vehicle's trunk while parked at school.

<sup>53</sup> Required by 105 ILCS 5/10-22.6(b-25). See sample administrative procedure 7:190-AP8, *Student Re-Engagement Guidelines*.



exclusionary discipline and shall include the opportunity for students who have been suspended to complete or make up work for equivalent academic credit. <sup>54</sup>

### Required Notices

A school staff member shall immediately notify the office of the Building Principal in the event that he or she: (1) observes any person in possession of a firearm on or around school grounds; however, such action may be delayed if immediate notice would endanger students under his or her supervision, (2) observes or has reason to suspect that any person on school grounds is or was involved in a drug-related incident, or (3) observes a battery committed against any staff member or is subject to a battery.<sup>55</sup> ~~Upon receiving such a report, the Building Principal or designee shall immediately notify the local law enforcement agency, Ill. State Police (ISP), and any involved student's parent/guardian.~~ School grounds includes modes of transportation to school activities and any public way within 1000 feet of the school, as well as school property itself.

Upon receiving ~~such~~ a report of (1), above, the Building Principal or designee shall immediately notify ~~the~~ local law enforcement. In addition, upon receiving a report on any of the above (1)-(3), the Building Principal or designee shall notify the Superintendent or designee agency, Ill. State Police (ISP), and any involved student's parent/guardian. <sup>56</sup>

Upon receiving a report on any of the above (1)-(3), the Superintendent or designee shall immediately notify local law enforcement. The Superintendent or designee shall also report incidents involving battery against staff members to the Ill. State Board of Education through its web-based School Incident Reporting System as they occur during the year and no later than August 1 for the preceding school year. <sup>57</sup>

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<sup>54</sup> A goal for re-engagement is optional. Schools must permit students who were suspended to make-up work for equivalent academic credit. 105 ILCS 5/10-22.6(b-30).

<sup>55</sup> 105 ILCS 5/10-27.1A(a), 5/10-27.1B, and 5/10-21.7, amended by P.A. 102-894. *School grounds* includes the real property comprising any school, any conveyance used to transport students to school or a school-related activity, and any public way within 1,000 feet of any school ground. ~~To satisfy the reporting requirement, ISBE created the School Incident Reporting System (SIRS), a web-based application on IWAS for schools to report incidents electronically. Reporting on SIRS does not satisfy the requirement to report incidents to local law enforcement authorities.~~

<sup>56</sup> ~~Id.~~ State law imposes ~~the~~<sup>is</sup> duty to report firearm possession only on school officials; this duty may be also imposed on volunteers and community members. Only staff members, however, are vulnerable to committing a petty offense for their failure to report, and only staff members are protected from civil or criminal liability that might arise as a result of making a report (although the liability potential for anyone making a report is remote).

The building principal must notify the student's parents/guardians only when the alleged offense is firearm possession. 105 ILCS 5/27.1A(b). The policy expands this notification duty to include drug-related incidents and battery of a staff member; a board disinclined to do this should ~~substitute the following~~amend the second sentence as follows:

~~Upon receiving such a report, the Building Principal or designee shall immediately notify the applicable local law enforcement.~~ In addition, upon receiving a report on any of the above (1)-(3), the Building Principal or designee shall notify the Superintendent or designee agency, Ill. State Police (ISP); and, if a student is reportedly in possession of a firearm, also any involved student's parents/guardians.

<sup>57</sup> 105 ILCS 5/10-27.1A(c), amended by P.A. 103-34, 5/10-27.1B(b), and 5/10-21.7, amended by P.A. 102-894. To satisfy the reporting requirement, ISBE created the School Incident Reporting System (SIRS), a web-based application on IWAS for schools to report incidents electronically. See subhead J. Required Notices of sample administrative procedure 4:170-API, Comprehensive Safety and Security Plan. Reporting on SIRS does not satisfy the requirement to report incidents to local law enforcement authorities.

### Delegation of Authority

Each teacher, and any other school personnel when students are under his or her charge, is authorized to impose any disciplinary measure, other than suspension, expulsion, corporal punishment, or in-school suspension, that is appropriate and in accordance with the policies and rules on student discipline. Teachers, other certificated [licensed] educational employees, and other persons providing a related service for or with respect to a student, may use reasonable force as needed to maintain safety for other students, school personnel, or other persons, or for the purpose of self-defense or defense of property. Teachers may temporarily remove students from a classroom for disruptive behavior. <sup>58</sup>

The Superintendent, Building Principal, Assistant Building Principal, or Dean of Students is authorized to impose the same disciplinary measures as teachers and may suspend students guilty of gross disobedience or misconduct from school (including all school functions) and from riding the school bus, up to 10 consecutive school days, provided the appropriate procedures are followed.<sup>59</sup> The Board may suspend a student from riding the bus in excess of 10 school days for safety reasons. <sup>60</sup>

### Student Handbook <sup>61</sup>

The Superintendent, with input from the parent-teacher advisory committee,<sup>62</sup> shall prepare disciplinary rules implementing the District's disciplinary policies. These disciplinary rules shall be presented annually to the Board for its review and approval.

A student handbook, including the District disciplinary policies and rules, shall be distributed to the students' parents/guardians within 15 days of the beginning of the school year or a student's enrollment.

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<sup>58</sup> 105 ILCS 5/24-24 and 23 Ill.Admin.Code §1.280 require: (1) teachers and other certificated [licensed] employees (except for individuals employed as paraprofessionals) to maintain discipline, and (2) the district to have a policy on discipline that provides that:

[A] teacher, other certificated employee, and any other person, whether or not a certificated employee, providing a related service for or with respect to a student may use reasonable force as needed to maintain safety for the other students, school personnel or persons or for the purpose of self-defense or the defense of property, shall provide that a teacher may remove a student from the classroom for disruptive behavior, and shall include provisions which provide due process to students. The policy shall not include slapping, paddling or prolonged maintenance of students in physically painful positions nor shall it include the intentional infliction of bodily harm. 105 ILCS 5/24-24.

<sup>59</sup> Required by 105 ILCS 5/10-22.6(b).

<sup>60</sup> *Id.*

<sup>61</sup> 105 ILCS 5/10-20.14(a) requires schools to provide a copy of the student discipline policy to parents/guardians within 15 days after the beginning of the school year, or within 15 days after a transfer student starts classes, but it does not specify how to provide copies. For ease of administration, this policy specifies that copies will be provided via student handbooks.

<sup>62</sup> The board must establish and maintain a parent-teacher advisory committee to develop guidelines on student discipline. See 2:150, *Committees*. This policy's dissemination requirements are from 105 ILCS 5/10-20.14.

A comprehensive student handbook can provide notice of the school's conduct rules, extracurricular and athletic participation requirements, and other important information. The handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and board. The Illinois Principals Association maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook (MSH)*, at: [www.ilprincipals.org/msh/](http://www.ilprincipals.org/msh/).

Incorporated

by Reference: 7:190-AP4 (Use of Isolated Time Out, Time Out, and Physical Restraint)

LEGAL REF.: 20 U.S.C. §~~6087971~~, Pro-Children Act of ~~20041994~~.  
20 U.S.C. §7961 et seq., Gun Free Schools Act.  
105 ILCS 5/10-20.5b, 5/10-20.14, 5/10-20.28, 5/10-20.36, 5/10-21.7, 5/10-21.10,  
5/10-22.6, 5/10-27.1A, 5/10-27.1B, 5/22-33, 5/24-24, 5/26-12, 5/27-23.7, and  
5/31-3.  
105 ILCS 110/3.10, Critical Health Problems and Comprehensive Health Education  
Act.  
410 ILCS 130/, Compassionate Use of Medical Cannabis Pilot Program.  
410 ILCS 647/, Powdered Caffeine Control and Education Act.  
430 ILCS 66/, Firearm Concealed Carry Act.  
23 Ill.Admin.Code §§ 1.280, 1.285.

CROSS REF.: 2:150 (Committees), 2:240 (Board Policy Development), 5:230 (Maintaining  
Student Discipline), 6:110 (Programs for Students At Risk of Academic Failure  
and/or Dropping Out of School and Graduation Incentives Program), 7:70  
(Attendance and Truancy), 7:130 (Student Rights and Responsibilities), 7:140  
(Search and Seizure), 7:150 (Agency and Police Interviews), 7:160 (Student  
Appearance), 7:170 (Vandalism), 7:180 (Prevention of and Response to Bullying,  
Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:200  
(Suspension Procedures), 7:210 (Expulsion Procedures), 7:220 (Bus Conduct),  
7:230 (Misconduct by Students with Disabilities), 7:240 (Conduct Code for  
Participants in Extracurricular Activities), 7:270 (Administering Medicines to  
Students), 7:310 (Restrictions on Publications; Elementary Schools), 7:315  
(Restrictions on Publications; High Schools), 8:30 (Visitors to and Conduct on  
School Property)

## Students

### Student Support Services <sup>1</sup>

The District provides a liaison to facilitate the enrollment and transfer of records of students in the legal custody of the Ill. Dept. of Children and Family Services when enrolling in or changing schools. <sup>2</sup>

The following student support services may be provided by the School District: <sup>3</sup>

1. Health services supervised by a qualified school nurse.<sup>4</sup> The Superintendent or designee may implement procedures to further a healthy school environment and prevent or reduce the spread of disease.

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<sup>1</sup> State or federal law controls this policy's content.

<sup>2</sup> Required by 105 ILCS 5/10-20.59, amended by P.A. 102-199. See f/n 16 in sample policy 7:50, *School Admissions and Student Transfers To and From Non-District Schools*, for liaison responsibilities and requirements.

<sup>3</sup> All districts are required to conduct a comprehensive needs assessment to determine the scope of student personnel services needs in the areas of: (1) guidance and counseling needs; (2) psychological needs; (3) social work needs; and (4) health needs. 23 Ill.Admin.Code §1.420(q). Endorsement requirements for various types of school support personnel are referenced in f/ns 3 through 6 below, and further information is available at: [www.isbe.net/Pages/PEL-School-Support-Ed-Lic.aspx](http://www.isbe.net/Pages/PEL-School-Support-Ed-Lic.aspx). Until 6-20-2023, an individual who fails to meet the necessary qualifications for a specific school support personnel endorsement, but holds another professional license or certification approved by ISBE, may seek short-term approval for assignment to a position in situations where an unforeseen vacancy occurs. 23 Ill.Admin.Code §25.48. Short-term approvals are valid for three full fiscal years. 23 Ill.Admin.Code §25.432.

~~P.A. 95-558 created the Ensuring Success in School Task Force. This task force developed recommendations for policies, procedures, and protocols for school boards to adopt to address the education and related needs of students who are parents, expectant parents, or victims of domestic or sexual violence. The intent of the recommendations was to ensure these student populations' ability to: (1) stay in school; (2) stay safe at school; and (3) successfully complete their education.-105 ILCS 5/2-3.147, added by P.A. 95-558 and repealed by P.A. 99-30, created the Ensuring Success in School Task Force. 105 ILCS 5/26A-15, added by P.A. 102-466 and scheduled to be repealed on 12-1-25, created a subsequent Ensuring Success in School Task Force.~~ See f/n 3 in sample policy 6:65, *Student Social and Emotional Development*, for further information.

<sup>4</sup> School districts may employ non-professional-educator-licensed *registered professional nurses* to perform professional nursing services. 105 ILCS 5/10-22.23, amended by P.A. 102-894; 23 Ill.Admin.Code §1.760(c). A *registered professional nurse* means any nurse who is licensed to practice professional nursing in Illinois under the Nurse Practice Act (225 ILCS 65/) and whose license is active and in good standing with the Ill. Dept. of Financial and Professional Regulation. 23 Ill.Admin.Code §1.760(b).

A *school nurse* means any registered professional nurse who also holds a professional educator license endorsed for school support services in school nursing, or any registered professional nurse who does not hold the professional educator license but was employed in the school district of current employment before 7-1-76. 23 Ill.Admin.Code §1.760(c).

105 ILCS 5/10-22.23 provides that any nurse first employed on or after 7-1-76, whose duties require teaching or the exercise of instructional judgment or educational evaluation of students, must be licensed under 105 ILCS 5/21B-25.

A school nurse may hold a Professional Educator License with a school support personnel endorsement. 105 ILCS 5/21B-25(2)(G); 23 Ill.Admin.Code §§1.760(c), 23.120, 25.245.

2. Educational and psychological testing services and the services of a school psychologist<sup>5</sup> as needed. In all cases, written permission to administer a psychological examination must be obtained from a student's parent(s)/guardian(s). The results will be given to the parent(s)/guardian(s), with interpretation, as well as to the appropriate professional staff.
3. The services of a school social worker.<sup>6</sup> A student's parent/guardian must consent to regular or continuing services from a social worker.
4. Guidance and school counseling<sup>7</sup> services.

The Superintendent or designee shall develop protocols for responding to students with social, emotional, or mental health needs that impact learning ability.<sup>8</sup> The District, however, assumes no liability for preventing, identifying, or treating such needs.

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<sup>5</sup> A *school psychologist* means a psychologist who holds a Professional Educator License with a school psychologist endorsement per 105 ILCS 5/21B-25 and either: (1) has graduated with a master's degree or higher degree in psychology or educational psychology from an institution of higher education that maintains equipment, courses of study, and standards of scholarship approved by the Ill. State Board of Education (ISBE), has had at least one school year of full-time supervised experience in the delivery of school psychological service approved by the State Superintendent of Education, and has such additional qualifications as may be required by ISBE; or (2) holds a valid Nationally Certified School Psychologist credential. 105 ILCS 5/14-1.09. School psychologists hold a Professional Educator License with a school support personnel endorsement. 105 ILCS 5/21B-25(2)(G); 23 Ill.Admin.Code §§1.760(a), 23.130, 25.235. The scope of school psychological services is described in 105 ILCS 5/14-1.09.1, amended by P.A. 102-894.

<sup>6</sup> A *school social worker* means a social worker who has graduated from an accredited graduate school of social work and has such additional qualifications as may be required by ISBE and who holds a Professional Educator License with a school support personnel endorsement for school social work per 105 ILCS 5/21B-25. 105 ILCS 5/14-1.09a. See 105 ILCS 5/10-22.24a, amended by P.A. 102-894, and 5/21B-25(2)(G); 23 Ill.Admin.Code §§1.760(a), 23.140, 25.215. School social workers may not provide services outside of their district employment to any student(s) attending school in the district. [105 ILCS 5/14-1.09a](#)~~23 Ill.Admin.Code §25.215~~.

*School marriage and family therapists* are another type of school support personnel; they hold a Professional Educator License with a school support personnel endorsement. 105 ILCS 5/21B-25(2)(G); 23 Ill.Admin.Code §§23.150, 25.260. The scope of school social worker services is described in 105 ILCS 5/14-1.09.2, amended by P.A. 102-894.

<sup>7</sup> *School counselors* hold a Professional Educator License with a school support personnel endorsement. 105 ILCS 5/21B-25(2)(G); 23 Ill.Admin.Code §§1.760(a), 23.110, 25.225. *School guidance counselors* refers to district employees that work in high schools to offer students advice and assistance in making career or college plans; no specific school support personnel endorsement exists for school guidance counselors. 105 ILCS 5/22-93, added by P.A. 102-327 and renumbered by P.A. 102-813.

In contrast, *professional counselors* and professional counseling practice in Illinois are governed by the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act and its implementing regulations. 225 ILCS 107/; 68 Ill.Admin.Code Part 1375. The Mental Health and Developmental Disabilities Code, 405 ILCS 5/, provides that minors 12 years of age or older may request and receive up to eight 90-minute sessions (previously five 45-minute sessions) of professional counseling services or psychotherapy (provided by a clinical psychologist) without the consent of the minor's parent, guardian, or person in loco parentis. 405 ILCS 5/3-550. Most school districts do not regularly provide *professional counseling* or *clinical* psychological services to students. Instead, most districts provide *school counseling* or *school psychological* services to students, and Illinois law does not specify any limits on the number of school counseling or school psychological sessions which a minor may have before obtaining parent/guardian permission. If your district seeks to regularly provide *professional counseling* or *clinical psychological* services to students, consult with your board attorney about potential changes to board policies and administrative procedures, as well as collective bargaining issues.

<sup>8</sup> Required by the Children's Mental Health Act, 405 ILCS 49/15(b).

Erin's Law Counseling Options, Assistance, and Intervention<sup>9</sup>

The Superintendent or designee will ensure that each school building's Student Support Committee identifies counseling options for students who are affected by sexual abuse and grooming behaviors, along with District and community-based options for victims of sexual abuse and grooming behaviors to obtain assistance and intervention. Community-based options must include a Children's Advocacy Center and sexual assault crisis center(s) that serve the District, if any.

This policy shall be implemented in a manner consistent with State and federal laws, including the Individuals with Disabilities Education Act, 42 U.S.C. §12101 et seq.

LEGAL REF.: 105 ILCS 5/10-23.13(b), 5/10-20.59, and 5/21B-25(G).  
405 ILCS 49/, Children's Mental Health Act.  
740 ILCS 110/, Mental Health and Developmental Disabilities Confidentiality Act.

CROSS REF.: 6:65 (Student Social and Emotional Development), 6:270 (Guidance and Counseling Program), 7:100 (Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students), 7:280 (Communicable and Chronic Infectious Disease), 7:340 (Student Records)

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<sup>9</sup> Required by *Erin's Law*, 105 ILCS 5/10-23.13(b)(2), (3), and (5), amended by P.A. 102-610. See sample policy 5:90, *Abused and Neglected Child Reporting*, and [sample](#) administrative procedure 5:90-AP1, *Coordination with Children's Advocacy Center*, for more information on Children's Advocacy Centers.

## Students

### Administering Medicines to Students<sup>1</sup>

Students should not take medication during school hours or during school-related activities unless it is necessary for a student's health and well-being. When a student's licensed health care provider and parent/guardian believe that it is necessary for the student to take a medication during school hours or school-related activities, the parent/guardian must request that the school dispense the medication to the child and otherwise follow the District's procedures on dispensing medication.

No School District employee shall administer to any student, or supervise a student's self-administration of, any prescription or non-prescription medication until a completed and signed *School Medication Authorization Form (SMA Form)* is submitted by the student's parent/guardian.

No student shall possess or consume any prescription or non-prescription medication on school grounds or at a school-related function other than as provided for in this policy and its implementing procedures.

Nothing in this policy shall prohibit any school employee from providing emergency assistance to students, including administering medication.

The Building Principal shall include this policy in the Student Handbook and shall provide a copy to the parents/guardians of students.<sup>2</sup>

### Self-Administration of Medication

A student may possess and self-administer an epinephrine injector, e.g., EpiPen®, and/or asthma medication prescribed for use at the student's discretion, provided the student's parent/guardian has

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<sup>1</sup> All boards must have a policy for administering medication. 105 ILCS 5/10-20.14b. State law prohibits school boards from requiring that teachers and other non-administrative school employees administer medication to students; exceptions are certificated school nurses and non-certificated registered professional nurses. 105 ILCS 5/10-22.21b, ~~amended by P.A. 101-205~~. For a sample medication authorization form, see [sample exhibit 7:270-E1, School Medication Authorization Form](#).

Separate from this policy, boards must also adopt a policy that addresses the prevention of anaphylaxis and a district's response to medical emergencies resulting from anaphylaxis. See sample policy 7:285, *Anaphylaxis Prevention, Response, and Management Program*, and its accompanying administrative procedure, 7:285-AP, *Anaphylaxis Prevention, Response, and Management Program*, for more information. Due to the structure of the School Code and the IASB Policy Reference Manual, [sample policy 7:285, Anaphylaxis Prevention, Response, and Management Program](#), does not address the administration of epinephrine and instead refers to this policy 7:270, *Administering Medicine to Students*.

<sup>2</sup> Each district must inform students, e.g., through homeroom discussion or loudspeaker announcement, about, and distribute to their parents/guardians, the district's policy, guidelines, and forms on administering medicines within 15 days after the beginning of each school year, or within 15 days after starting classes for a student who transfers into the district. 105 ILCS 5/10-20.14b. A comprehensive student handbook can provide notice to parents and students of the school's rules, extracurricular and athletic participation requirements, and other important information. The handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and board. The Illinois Principals Association maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook (MSH)*, at: [www.ilprincipals.org/msh/www.ilprincipals.org/resources/model-student-handbook](http://www.ilprincipals.org/msh/www.ilprincipals.org/resources/model-student-handbook).

completed and signed an *SMA Form*.<sup>3</sup> The Superintendent or designee will ensure an Emergency Action Plan is developed for each self-administering student.<sup>4</sup>

A student may self-administer medication required under a *qualifying plan*, provided the student's parent/guardian has completed and signed an *SMA Form*.<sup>5</sup> A qualifying plan means: (1) an asthma action plan, (2) an Individual Health Care Action Plan, (3) an [allergy emergency action plan](#)~~III. Food Allergy Emergency Action Plan and Treatment Authorization Form~~, (4) a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973, or (5) a plan pursuant to the federal Individuals with Disabilities Education Act.

The District shall incur no liability, except for willful and wanton conduct, as a result of any injury arising from a student's self-administration of medication, including asthma medication or epinephrine injectors, or medication required under a qualifying plan.<sup>6</sup> A student's parent/guardian must indemnify and hold harmless the District and its employees and agents, against any claims, except a claim based

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<sup>3</sup> 105 ILCS 5/22-30, amended by P.A. 102-413, requires school districts to allow students to *self-administer* their prescribed asthma medication and an epinephrine injector as described. *Self-carry* means a student's ability to carry his or her prescribed asthma medication or epinephrine injector. *Self-administer* and *self-administration* mean that a student may use these two medications at his or her discretion: (1) while in school; (2) while at a school sponsored activity; (3) while under the supervision of school personnel; or (4) before or after normal school activities, such as while in before-school or after-school care on school-operated property.

<sup>4</sup> 105 ILCS 5/10-22.21b(d), ~~added by P.A. 101-205~~. The plan must address actions to be taken if the student is unable to self-administer medication and the situations in which the school must call 911. *Id.* For plan guidance, see [sample administrative procedure 7:270-AP1, Dispensing Medication](#).

<sup>5</sup> 105 ILCS 5/10-22.21b(c), amended by P.A. ~~103-175~~~~401-205~~. A student with an asthma action plan, an Individual Health Care Action Plan, [an allergy emergency action plan](#), ~~Illinois Food Allergy Emergency Action Plan and Treatment Authorization Form (Ill. EAP Form)~~, a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973, or a plan pursuant to the federal Individuals with Disabilities Education Act may self-administer medication if the student's parent/guardian provides the school with: (1) written permission for the student's self-administration of medication, (2) written authorization from the student's physician, physician assistant, or advanced practice registered nurse for the student to self-administer the medication, and (3) the prescription label containing the name of the medication, the prescribed dosage, and the time(s) or circumstances under which the medication is to be administered. *Id.* ~~At 5/10-22.21(c), added by P.A. 101-205~~. This does not allow a student to self-carry unless otherwise permitted. Contact the board attorney for further guidance.

~~105 ILCS 5/2-3.149, repealed and replaced by 105 ILCS 5/2-3.1902-3.182, added by P.A. 102-413 and by P.A. 102-813, led ISBE to retire the 2010 publication, *Procedures for Managing Life-Threatening Food Allergies in Schools*, which included the Ill. EAP Form in an appendix. ISBE replaced the 2010 publication with the *Anaphylaxis Response Policy (2022)*, which does not include or refer to the now retired Ill. EAP Form. 105 ILCS 5/10-22.21b, 5/22-30(b-5), and 5/22-30(b-10) have not been amended to remove or replace the Ill. EAP Form reference. It is unknown if that form will continue to be accessible on the ISBE website. See 7:285-AP, *Anaphylaxis Prevention, Response, and Management Program*, f/n 1, for more information, and consult the board attorney for guidance on the continued use of the Ill. EAP Form or use of another form to document the emergency action plan for a student at risk for anaphylaxis.~~

<sup>6</sup> 105 ILCS 5/22-30, amended by P.A. 102-413 (asthma medication and epinephrine injectors) and 105 ILCS 5/10-22.21b, ~~amended by P.A. 101-205~~ (medications required by a plan listed in 105 ILCS 5/10-22.21b(c), ~~added by P.A. 101-205~~). 105 ILCS 5/22-30(c) requires this information to be in a notification to parents/guardians. 105 ILCS 5/10-22.21b, ~~amended by P.A. 101-205~~, does not specifically require this information to be in a notification to parents/guardians. However, 105 ILCS 5/10-22.21b requires parents/guardians to sign a statement that includes the district's protections from liability under 105 ILCS 5/10-22.21b; the signed acknowledgment (see f/n 7) is the notice. This policy includes the liability protection information under 105 ILCS 5/10-22.21b to also inform the community.

The storage of medication is not addressed in the applicable statutes and may not be covered as part of the district's protections from liability and hold harmless provisions. Contact the board attorney and the board's liability insurance carrier for further discussion about the district's liability and coverage in this area.



on willful and wanton conduct, arising out of a student's self-administration of an epinephrine injector, asthma medication, and/or a medication required under a qualifying plan.<sup>7</sup>

### School District Supply of Undesignated Asthma Medication<sup>8</sup>

The Superintendent or designee shall implement 105 ILCS 5/22-30(f) and maintain a supply of undesignated asthma medication in the name of the District and provide or administer them as necessary according to State law. *Undesignated asthma medication* means an asthma medication prescribed in the name of the District or one of its schools. A school nurse or trained personnel, as defined in State law,<sup>9</sup> may administer an undesignated asthma medication to a person when they, in good faith, believe a person is having *respiratory distress*. Respiratory distress may be characterized as *mild-to-moderate* or *severe*.<sup>10</sup> Each building administrator and/or his or her corresponding school nurse shall maintain the names of trained personnel who have received a statement of certification pursuant to State law.<sup>11</sup>

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>7</sup> 105 ILCS 5/22-30(c) and 105 ILCS 5/10-22.21b(e), ~~amended by P.A. 101-205~~. Both statutes require parents/guardians to sign a statement: (1) acknowledging the statement from f/n 6 above; and (2) that they must indemnify and hold harmless the school district and its employees and agents against any claims, except a claim based on willful and wanton conduct, arising out of the self-administration of medication by the student. There are several methods to obtain a parent/guardian's signature for this purpose, e.g., receipt of handbook signature, or see [sample exhibit 7:270-E1, School Medication Authorization Form](#). Discuss with the board attorney the method that works best for the district.

<sup>8</sup> Optional. A school board must ensure that it does not adopt this section into the policy unless it is prepared to implement 105 ILCS 5/22-30, amended by P.A. 102-413. The law permits a district to maintain a supply of undesignated asthma medication in any secure location that is accessible before, during, and after school where a person is most at risk, including, but not limited to a classroom or the nurse's office, and use them when necessary. The P.A. 100-726 amendment requiring accessibility before, during, and after school did not address the logistical issues that classrooms are typically locked before and after school. Consult the board attorney about implementation issues with this phrase in the law.

Consult the board attorney about the consequences of informing the community that the district will obtain a prescription for a supply of undesignated asthma medication, implement a plan for its use, and then not doing it, as doing so may be fraught with legal liabilities. Also fraught with legal liabilities is when the district provides them, but does not have them accessible before, during, and after school where an asthmatic person is most at risk as required by 105 ILCS 5/22-30, amended by P.A. 102-413. See In re Estate of Stewart, 406 Ill.Dec. 345 (2nd Dist. 2016)(denying tort immunity to district, finding its response to a student's asthma attack was *willful* and *wanton* (which district disputed as a possible heart attack)) and In re Estate of Stewart, 412 Ill.Dec. 914 (Ill. 2017)(school district's appeal denied).

The superintendent is given broad authority to implement this section; however, several preliminary steps should occur with the assistance of the board attorney. They include, but are not limited to: (1) investigating the feasibility of obtaining a prescription for a supply of undesignated asthma medication in the name of the district or one of its schools, and (2) outlining the advantages and disadvantages of implementing this plan based upon each district's individual resources and circumstances, and student population's needs. To address the challenge of filling prescriptions for undesignated asthma medication, the Ill. Pharmacists Association drafted a letter that may be presented to a pharmacy by a district, available at: [www.isbe.net/Documents/IPA-Letter-Stock-Albuterol-Schools.pdf?\\_cldee=BtclIGusJeg4Wd3XGMA\\_81VB3v7EOogRMwj\\_acELKt5VyfZp\\_HK5z7IOPBWEkq8m&recipientid=contact-dcb493d09761eb11a8120022480a52c0-872cc093583c486e9087f877ee80a69d&esid=e1634f63-4397-ed11-aad1-000d3a3148fb](http://www.isbe.net/Documents/IPA-Letter-Stock-Albuterol-Schools.pdf?_cldee=BtclIGusJeg4Wd3XGMA_81VB3v7EOogRMwj_acELKt5VyfZp_HK5z7IOPBWEkq8m&recipientid=contact-dcb493d09761eb11a8120022480a52c0-872cc093583c486e9087f877ee80a69d&esid=e1634f63-4397-ed11-aad1-000d3a3148fb).

<sup>9</sup> 105 ILCS 5/22-30(a) defines *trained personnel* as any school employee or volunteer personnel authorized in Sections 10-22.34, 10-22.34a, and 10-22.34b of the School Code who has completed training required by 105 ILCS 5/22-30(g), to recognize and respond to anaphylaxis, an opioid overdose, or respiratory distress. 105 ILCS 5/22-30(a).

The Ill. State Board of Education (ISBE) must develop the training curriculum for trained personnel, and it may be conducted online or in person. Id. at (h), amended by P.A. 102-413, and 23 Ill.Admin.Code §1.540(e)(3). 105 ILCS 5/22-30(h-5), 5/22-30(h), amended by P.A. 102-413, and 5/22-30(h-10), and 23 Ill.Admin.Code §1.540(e) list the training curriculum requirements to recognize and respond to an opioid overdose, an allergic reaction, including anaphylaxis, and respiratory distress, respectively. See training resources, at: [www.isbe.net/Pages/School-Nursing.aspx](http://www.isbe.net/Pages/School-Nursing.aspx).

<sup>10</sup> 105 ILCS 5/22-30(a). *Respiratory distress* means the perceived or actual presence of wheezing, coughing, shortness of breath, chest tightness, breathing difficulty, or any other symptoms consistent with asthma. Id.

<sup>11</sup> Id. at (g); 23 Ill.Admin.Code §1.540(e)(9) and (10).

### School District Supply of Undesignated Epinephrine Injectors <sup>12</sup>

The Superintendent or designee shall implement 105 ILCS 5/22-30(f) and maintain a supply of undesignated epinephrine injectors in the name of the District and provide or administer them as necessary according to State law. *Undesignated epinephrine injector* means an epinephrine injector prescribed in the name of the District or one of its schools. A school nurse or trained personnel, as defined in State law,<sup>13</sup> may administer an undesignated epinephrine injector to a person when they, in good faith, believe a person is having an anaphylactic reaction. Each building administrator and/or his or her corresponding school nurse shall maintain the names of trained personnel who have received a statement of certification pursuant to State law. <sup>14</sup>

### School District Supply of Undesignated Opioid Antagonists <sup>15</sup>

The Superintendent or designee shall implement 105 ILCS 5/22-30(f) and maintain a supply of undesignated opioid antagonists ~~in the name of the District~~ and provide or administer them as necessary

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<sup>12</sup> Optional. If the board adopts this subhead, the use of undesignated epinephrine injectors must align with its anaphylaxis prevention, response, and management policy. See sample policy 7:285, *Anaphylaxis Prevention, Response, and Management Program*, at f/n 7, and its [sample](#) administrative procedure, 7:285-AP, *Anaphylaxis Prevention, Response, and Management Program*, at f/ns 4, 5, and 6. If the district does not maintain an undesignated supply of epinephrine, ensure that policy 7:285 and [administrative procedure](#) 7:285-AP do not state that it does maintain such a supply.

A school board must ensure that it does not adopt this section into the policy unless it is prepared to implement 105 ILCS 5/22-30, amended by P.A. 102-413. The law permits a district to maintain a supply of undesignated epinephrine injectors in any secure location that is accessible before, during, and after school where an allergic person is most at risk, including, but not limited to, classrooms and lunchrooms, and use them when necessary. 105 ILCS 5/22-30 requires accessibility before, during, and after school does not address the logistical issues that classrooms are typically locked before and after school. Consult the board attorney about the implementation issues with this new phrase in the law.

Consult the board attorney about the consequences of informing the community that the district will obtain a prescription for a supply of undesignated epinephrine injectors, and implement a plan for their use, and then not doing it, as doing so may be fraught with legal liabilities. Also fraught with legal liabilities is if the district provides them, but does not have them accessible before, during, and after school where an allergic person is most at risk as required by 105 ILCS 5/22-30, amended by P.A. 102-413. See *In re Estate of Stewart*, 406 Ill.Dec. 345 (2nd Dist. 2016)(denying tort immunity to district, finding its response to a student's asthma attack was *willful* and *wanton* (which district disputed as a possible heart attack)); *In re Estate of Stewart*, 412 Ill.Dec. 914 (Ill. 2017)(school district's appeal denied).

The superintendent is given broad authority to implement this section; however, several preliminary steps should occur with the assistance of the board attorney. They include, but are not limited to: (1) investigating the feasibility of obtaining a prescription for a supply of undesignated epinephrine injectors in the name of the district or one of its schools, and (2) outlining the advantages and disadvantages of implementing this plan based upon each district's individual resources and circumstances, and student population's needs.

<sup>13</sup> See the discussion regarding *trained personnel*, in f/n 9, above.

<sup>14</sup> See f/n 11, above.

<sup>15</sup> ~~Optional. Required by 105 ILCS 5/22-30(f), amended by P.A. 103-348, eff. 1-1-24. In the case of a shortage of opioid antagonists, a district must make reasonable efforts to maintain a supply. Id. At least one opioid antagonist, a naloxone nasal spray, has been approved by the U.S. Federal Food and Drug Administration for over-the-counter, nonprescription use. A district must obtain a prescription for a supply of opioid antagonists from a health care professional with prescriptive authority under the Substance Use Disorder Act, 20 ILCS 301/5-23, unless it is able to secure a supply without a prescription. Id. Health care professional means a physician licensed to practice medicine in all its branches, a licensed physician assistant with prescriptive authority, a licensed advanced practice registered nurse with prescriptive authority, or an advanced practice registered nurse who practices in a hospital or ambulatory surgical treatment center and possesses appropriate clinical privileges in accordance with the Nurse Practice Act, 20 ILCS 301/5-23(d)(4). Id. If the board chooses to implement an undesignated opioid antagonist program, and the district employs law enforcement, consult the board attorney about whether this subhead becomes required. See Substance Use Disorder Act, 20 ILCS 301/.~~

according to State law. *Opioid antagonist* means a drug that binds to opioid receptors and blocks or inhibits the effect of opioids acting on those receptors, including, but not limited to, naloxone hydrochloride or any other similarly acting drug approved by the U.S. Food and Drug Administration. *Undesignated opioid antagonist* is not defined by the School Code; for purposes of this policy it means an opioid antagonist prescribed in the name of the District or one of its schools or obtained by the District without a prescription. A school nurse or trained personnel,<sup>16</sup> as defined in State law, may administer an undesignated opioid antagonist to a person when they, in good faith, believe a person is having an opioid overdose. Each building administrator and/or his or her corresponding school nurse shall maintain the names of trained personnel who have received a statement of certification pursuant to State law.<sup>17</sup> See the website for the Ill. Dept. of Human Services for information about opioid prevention, abuse, public awareness, and a toll-free number to provide information and referral services for persons with questions concerning substance abuse treatment. <sup>18</sup>

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~~For boards that choose to implement an undesignated opioid antagonists program, c~~Consult the board attorney regarding the Safe and Drug-Free School and Communities Act of 1994 (20 U.S.C. §7101(b)). It prohibits funds provided under it to be used for medical services or drug treatment or rehabilitation, except for integrated student supports, specialized instructional support services, or referral to treatment for impacted students, which may include students who are victims of, or witnesses to crime or who illegally use drugs.

A school board must ensure that it does not adopt this section into the policy unless it is prepared to implement 105 ILCS 5/22-30, amended by P.A.s 102-413 and 103-348. The law permits a district to maintain a supply of undesignated opioid antagonists in any secure location where a person is at risk of an opioid overdose and use them when necessary. The consequences of informing the community that the district will obtain a prescription for a supply of opioid antagonists and implement a plan for their use, and then not doing it may be fraught with legal liabilities.

The superintendent is given broad authority to implement this section; however, several preliminary steps should occur with the assistance of the board attorney. They include, but are not limited to: (1) investigating the feasibility of obtaining a prescription for a supply of opioid antagonists in the name of the district or one of its schools, and (2) outlining the advantages and disadvantages of implementing this plan based upon each district's individual resources and circumstances, and student population's needs.

<sup>16</sup> See the discussion regarding *trained personnel* in f/n 9, above.

<sup>17</sup> See f/n 11, above.

<sup>18</sup> ~~This sentence is o~~Optional sentence if the board chooses to implement an undesignated opioid antagonist program as discussed in f/n 15, above. 20 ILCS 301/20-30, mandates the Ill. Dept. of Human Services to create a website with these resources. The purpose of this sentence is to provide the community with information about a public health crisis affecting students. See [www.dhs.state.il.us/page.aspx?item=58142](http://www.dhs.state.il.us/page.aspx?item=58142) for resources.

### School District Supply of Undesignated Oxygen Tanks <sup>19</sup>

In schools where the District maintains special educational facilities, the Superintendent or designee shall implement 105 ILCS 5/22-30(f) and maintain a supply of undesignated oxygen tanks in the name of the District and provide or administer them as necessary. The supply shall be maintained in accordance with manufacturer instructions and local fire department rules.

### School District Supply of Undesignated Glucagon <sup>20</sup>

The Superintendent or designee shall implement 105 ILCS 145/27 and maintain a supply of undesignated glucagon in the name of the District in accordance with manufacturer's instructions.

When a student's prescribed glucagon is not available or has expired, a school nurse or delegated care aide may administer undesignated glucagon only if he or she is authorized to do so by a student's diabetes care plan.

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<sup>19</sup> Optional. 105 ILCS 5/22-30(f), amended by P.A. 103-196, eff. 1-1-24, permits a district maintaining special educational facilities under 105 ILCS 5/14-4.01 to maintain a supply of undesignated oxygen tanks in a secure location that is accessible before, during, and after school where a person with developmental disabilities is most at risk, including, but not limited to classrooms and lunchrooms. Delete if the district does not maintain special educational facilities for children with disabilities under 105 ILCS 5/14-4.01. Special educational facility is not specifically defined in 105 ILCS 5/14-4.01; consult the board attorney for advice regarding this term and if it is limited to separate buildings, self-contained classrooms, and/or programs attended solely by students with disabilities. For example, this option may not be available if a district utilizes a special education cooperative for all of its special education programming. There is a reference to special education facilities in 105 ILCS 5/14-12.01, which may provide some guidance: it addresses reimbursement for the construction and maintenance of "special education facilities designed and utilized to house instructional program, diagnostic services" and "other special education services for children with disabilities." 105 ILCS 22-30(f), amended by P.A. 103-196, eff. 1-1-24, does not specify who can administer undesignated oxygen, nor does it specify any training requirements for its use in schools. To minimize potential liability and ensure proper administration, a best practice is to restrict who can administer undesignated oxygen to school nurses and other school personnel who have received appropriate training on the emergency use and storage of oxygen. See sample administrative procedure 7:270-AP2, Checklist for District Supply of Undesignated Medication(s).

Consult the board attorney about the consequences of informing the community that the district will obtain a prescription for a supply of undesignated oxygen tanks and implement a plan for their use, and then not doing it, as doing so may be fraught with legal liabilities. Also fraught with legal liabilities is if the district provides them, but does not have them accessible before, during, and after school where a person with development disabilities is most at risk as required by 105 ILCS 5/22-30(f), amended by P.A. 103-196, eff. 1-1-24. See In re Estate of Stewart, 406 Ill.Dec. 345 (2nd Dist. 2016)(denying tort immunity to district, finding its response to a student's asthma attack was willful and wanton (which district disputed as a possible heart attack)); In re Estate of Stewart, 412 Ill.Dec. 914 (Ill. 2017)(school district's appeal denied).

<sup>20</sup> Optional. 105 ILCS 145/27, ~~added by P.A. 101-428~~, permits a district to maintain a supply of undesignated glucagon in any secure location that is immediately accessible to a school nurse or delegated care aide. A school board must ensure that it does not adopt this section into the policy unless it is prepared to implement it.

Consult the board attorney about the consequences of informing the community that the district will obtain a prescription for a supply of undesignated glucagon, and implement a plan for their use, and then not doing it, as doing so may be fraught with legal liabilities.

The superintendent is given broad authority to implement this section; however, several preliminary steps should occur with the assistance of the board attorney. They include, but are not limited to: (1) investigating the feasibility of obtaining a prescription for a supply of undesignated glucagon in the name of the district or one of its schools, and (2) outlining the advantages and disadvantages of implementing this plan based upon each district's individual resources and circumstances, and student population's needs.

## Administration of Medical Cannabis <sup>21</sup>

The Compassionate Use of Medical Cannabis Program Act<sup>22</sup> allows a *medical cannabis infused product* to be administered to a student by one or more of the following individuals:

1. A parent/guardian of a student who is a minor who registers with the Ill. Dept. of Public Health (IDPH) as a designated caregiver to administer medical cannabis to their child. A designated caregiver may also be another individual other than the student's parent/guardian. Any designated caregiver must be at least 21 years old<sup>23</sup> and is allowed to administer a medical cannabis infused product to a child who is a student on the premises of his or her school or on his or her school bus if:
  - a. Both the student and the designated caregiver possess valid registry identification cards issued by IDPH;
  - b. Copies of the registry identification cards are provided to the District; <sup>24</sup>
  - c. That student's parent/guardian completed, signed, and submitted a School Medication Authorization Form - Medical Cannabis; and <sup>25</sup>
  - d. After administering the product to the student, the designated caregiver immediately<sup>26</sup> removes it from school premises or the school bus.

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<sup>21</sup> 105 ILCS 5/22-33(g) (*Ashley's Law*), requires school boards to adopt a policy and implement it by:

1. Authorizing a parent/guardian and/or a *designated caregiver* of a student who is a *registered qualifying patient* to administer a medical cannabis infused product to that student at school or on the school bus (105 ILCS 5/22-33(b)).
2. Allowing a school nurse or administrator to administer a medical cannabis infused product to a student who is a *registered qualifying patient* while at school, a school-sponsored activity, or before/after normal school activities, including while the student is in before-school or after-school care, on school-operated property, or while being transported on a school bus (105 ILCS 5/22-33(b-5); ~~added by 101-370~~).
3. Authorizing a student who is a *registered qualifying patient* to self-administer a medical cannabis infused product if the self-administration takes place under the direct supervision of a school nurse or school administrator (*Id.*).

Important: If a district would lose federal funding as a result of the board adopting this policy, the board may not authorize the use of a medical cannabis infused product under *Ashley's Law* and not adopt this subsection. 105 ILCS 5/22-33(f). See f/n ~~265~~, below, and paragraph two of f/n 1 in [sample](#) policy 5:50, *Drug- and Alcohol-Free Workplace; E-Cigarette, Tobacco, and Cannabis Prohibition*, for more information about Congress interfering with a state's decision to implement laws governing the legalization of cannabis, and consult the board attorney about the issue of federal funding. See also ISBE's *Frequently Asked Questions, Ashley's Law*, at: [www.isbe.net/Documents/Medical-Cannabis-FAQ.pdf](http://www.isbe.net/Documents/Medical-Cannabis-FAQ.pdf).

<sup>22</sup> 410 ILCS 130/; ~~amended by P.A. 101-363~~.

<sup>23</sup> *Id.* at 130/10(i), and 130/57(a) and (b); ~~amended by P.A. 101-363~~. A student under the age of 18 may have up to three designated caregivers as long as at least one is a biological parent or a legal guardian. *Id.* at 130/57(a). A student 18 years of age or older may appoint up to three designated caregivers who meet the requirements of the Compassionate Use of Medical Cannabis Program Act. *Id.* at 130/57(b).

<sup>24</sup> The laws are silent about copies of the cards being provided to the district. Requiring copies of the registry cards is a best practice. Consult the board attorney about any records laws implicated in requiring and maintaining copies of these registry cards.

<sup>25</sup> A completed and signed school medication authorization form is not required by *Ashley's Law* but is a best practice and consistent with this sample policy's language for other medications. See sample exhibit 7:270-E2, *School Medication Authorization Form - Medical Cannabis*.

<sup>26</sup> The word *immediately* is not in *Ashley's Law*. It is added to ensure legal compliance with federal laws that could affect federal funding. For example, consider administrators who may be in the situation where a designated caregiver provides his or her child the product and then wants to volunteer in the school or greet another child in the school while carrying the product in the building, which may violate the Cannabis Control Act (720 ILCS 550/5.2). Consult the board attorney about the best term to use here, if any, as nothing in the law addresses these common scenarios that school administrators will encounter.

2. A properly trained school nurse or administrator, who shall be allowed to administer the medical cannabis infused product to the student on the premises of the child’s school, at a school-sponsored activity, or before/after normal school activities, including while the student is in before-school or after-school care on school-operated property or while being transported on a school bus. <sup>27</sup>
3. The student him or herself when the self-administration takes place under the direct supervision of a school nurse or administrator. <sup>28</sup>

*Medical cannabis infused product* (product) includes oils, ointments, foods, and other products that contain usable cannabis but are not smoked or vaped.<sup>29</sup> Smoking and/or vaping medical cannabis is prohibited. <sup>30</sup>

The product may not be administered in a manner that, in the opinion of the District or school, would create a disruption to the educational environment or cause exposure of the product to other students. A school employee shall not be required to administer the product. <sup>31</sup>

Discipline of a student for being administered a product by a designated caregiver, or by a school nurse or administrator, or who self-administers a product under the direct supervision of a school nurse or administrator<sup>32</sup> pursuant to this policy is prohibited. The District may not deny a student attendance at a school solely because he or she requires administration of the product during school hours.

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<sup>27</sup> 105 ILCS 5/22-33(b-5), ~~added by P.A. 101-370~~. A school nurse or administrator must annually complete a training curriculum to be developed by ISBE in consultation with the Ill. Dept. of Public Health prior to administering a medical cannabis infused product to a student in accordance with this section. 105 ILCS 5/22-33(f-5), ~~added by P.A. 101-370~~. See [www.isbe.net/Pages/Health.aspx](http://www.isbe.net/Pages/Health.aspx) for training resources.

<sup>28</sup> *Id.* Any product administered by a school nurse or administrator, or self-administered under the supervision of a school nurse or administrator, must be stored with the school nurse at all times in a manner consistent with storage of other student medication at the school and may be accessible only by the school nurse or a school administrator. 105 ILCS 5/22-33(b-10), ~~added by P.A. 101-370~~.

<sup>29</sup> 410 ILCS 130/10(q). Consult the board attorney regarding the controversial issue of students using at, or bringing to school, cannabis-infused products without THC that are derived from *hemp or industrial hemp* (hemp oil or cannabidiol (CBD) oil, the naturally occurring cannabinoid constituent of cannabis). *Hemp or industrial hemp* is defined in the Industrial Hemp Act (IHA) as the plant *Cannabis sativa L.* and any part of that plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis ~~that has been cultivated under a license or is otherwise lawfully present in Illinois~~ and includes any intermediate or finished product made or derived from industrial hemp. 505 ILCS 89/5, ~~amended by P.A. 102-690~~. *Hemp or industrial hemp* is also colloquially known as *agricultural hemp*.

Products from *hemp or industrial hemp* are widely available. As a consequence, school employees may encounter the argument from a student and his or her parent/guardian that the use of hemp or CBD oil products derived from *hemp or industrial hemp* (containing no THC) is not a violation of Illinois law because 720 ILCS 550/4, ~~amended by P.A. 101-593~~, states “[e]xcept as otherwise provided in the Cannabis Regulation and Tax Act and the Industrial Hemp Act, it is unlawful for any person knowingly to possess cannabis.” In addition, products containing hemp or CBD oil can be purchased with a prescription and without a medical marijuana card, so a parent/guardian may argue that such prescriptions should be administered at school as any other prescription medication would be. Consult the board attorney for guidance.

<sup>30</sup> Optional sentence. 410 ILCS 130/10(q) prohibits medical cannabis from being smoked. District administrators may find providing this information to the community helpful to enforcement of this policy.

<sup>31</sup> 105 ILCS 5/22-33(e). Consult the board attorney for guidance regarding whether a school nurse or administrator can be required to administer the product. ISBE’s FAQ on *Ashley’s Law* (see f/n 21<sup>9</sup>) states that a school staff member cannot be forced to administer a medical cannabis infused product to a student because *Ashley’s Law* does not require it.

<sup>32</sup> 105 ILCS 5/22-33(d), ~~amended by P.A. 101-370~~.

Void Policy <sup>33</sup>

The **School District Supply of Undesignated Asthma Medication** section of the policy is void whenever the Superintendent or designee is, for whatever reason, unable to: (1) obtain for the District a prescription for undesignated asthma medication from a physician or advanced practice nurse licensed to practice medicine in all its branches, or (2) fill the District's prescription for undesignated school asthma medication. <sup>34</sup>

The **School District Supply of Undesignated Epinephrine Injectors** section of the policy is void whenever the Superintendent or designee is, for whatever reason, unable to: (1) obtain for the District a prescription for undesignated epinephrine injectors from a physician or advanced practice nurse licensed to practice medicine in all its branches, or (2) fill the District's prescription for undesignated school epinephrine injectors. <sup>35</sup>

The **School District Supply of Undesignated Opioid Antagonists** section of the policy is void whenever the Superintendent or designee is, ~~for whatever reason,~~ unable to: ~~(1) obtain a supply of opioid antagonists due to a shortage, in which case the District shall make reasonable efforts to maintain a supply.~~ <sup>36</sup>~~for the District a prescription for opioid antagonists from a health care professional<sup>37</sup> who has been delegated prescriptive authority for opioid antagonists in accordance with Section 5-23 of the Substance Use Disorder Act, or (2) fill the District's prescription for undesignated school opioid antagonists.~~ <sup>38</sup>

The **School District Supply of Undesignated Oxygen Tanks** section of the policy is void whenever the Superintendent or designee is, for whatever reason, unable to: (1) obtain for the District a prescription for oxygen tanks from a qualifying prescriber,<sup>39</sup> or (2) fill the District's prescription for undesignated oxygen tanks. <sup>40</sup>

The **School District Supply of Undesignated Glucagon** section of the policy is void whenever the Superintendent or designee is, for whatever reason, unable to: (1) obtain for the District a prescription

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<sup>33</sup> Remove this section if the board does not adopt the undesignated asthma medication, the undesignated epinephrine injector, the undesignated opioid antagonist, the undesignated glucagon, or the administration of medical cannabis sections (see f/n 21) of the policy. If the board adopts one or some but not all, delete the appropriate paragraph(s) or sentence(s) in this section.

<sup>34</sup> Discuss with the board attorney whether the board should remove this sentence when the district reaches full implementation of this section.

<sup>35</sup> See f/n 12, above.

<sup>36</sup> 105 ILCS 5/22-30(f), amended by P.A. 103-348, eff. 1-1-24. See f/n 15, above.

<sup>37</sup> ~~Health care professional means a physician licensed to practice medicine in all its branches, a licensed physician assistant with prescriptive authority, a licensed advanced practice registered nurse with prescriptive authority, or an advanced practice registered nurse who practices in a hospital or ambulatory surgical treatment center and possesses appropriate clinical privileges in accordance with the Nurse Practice Act. 20 ILCS 301/5-23(d)(4).~~

<sup>38</sup> See f/n 15 above.

<sup>39</sup> 105 ILCS 22-30(f), amended by P.A. 103-196, eff. 1-1-24, provides that a physician, a physician assistant who has prescriptive authority under the Physician Assistant Practice Act of 1987 (225 ILCS 95/7.5), or an advanced practice registered nurse who has prescriptive authority under the Nurse Practice Act (225 ILCS 65-40) may prescribe undesignated oxygen tanks in the name of the district to be maintained for use when necessary.

<sup>40</sup> See f/n 19, above.

for glucagon from a qualifying prescriber,<sup>41</sup> or (2) fill the District's prescription for undesignated school glucagon.<sup>42</sup>

The **Administration of Medical Cannabis** section of the policy is void and the District reserves the right not to implement it if the District or school is in danger of losing federal funding.<sup>43</sup>

#### Administration of Undesignated Medication<sup>44</sup>

Upon any administration of an undesignated medication permitted by State law, the Superintendent or designee(s) must ensure all notifications required by State law and administrative procedures occur.

#### Undesignated Medication Disclaimers

Upon implementation of this policy, the protections from liability and hold harmless provisions applicable under State law apply.<sup>45</sup>

No one, including without limitation, parents/guardians of students, should rely on the District for the availability of undesignated medication. This policy does not guarantee the availability of undesignated medications. Students and their parents/guardians should consult their own physician regarding these medication(s).

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<sup>41</sup> 105 ILCS 145/27, ~~added by P.A. 101-428~~, provides that a physician, a physician assistant who has prescriptive authority under the Physician Assistant Practice Act of 1987 (225 ILCS 95/7.5), or an advanced practice registered nurse who has prescriptive authority under the Nurse Practice Act (225 ILCS 65-40) may prescribe undesignated glucagon in the name of the district to be maintained for use when necessary.

<sup>42</sup> See f/n ~~2019~~, above.

<sup>43</sup> 105 ILCS 5/22-33(f).

<sup>44</sup> 105 ILCS 5/22-30, amended by P.A. 102-413, and 105 ILCS 145/27, ~~added by P.A. 101-428~~, detail specific required notifications, which are listed in [sample administrative procedure 7:270-AP2, Checklist for District Supply of Undesignated Asthma Medication\(s\), Epinephrine Injectors, Opioid Antagonists, and/or Glucagon](#).

<sup>45</sup> 105 ILCS 5/22-30(c). The school, and its employees and agents, incur no liability, except for willful and wanton conduct, as a result of an injury to a student arising from the administration of asthma medication, epinephrine injectors, or opioid antagonists (Id.), a student's self-administration of medication (105 ILCS 5/10-22.21b, ~~amended by P.A. 103-175; added by P.A. 101-205~~), or administration of undesignated glucagon (insofar as it would be considered part of the care of a student with diabetes, see 105 ILCS 145/45).

105 ILCS 5/22-30(c) requires the district to inform parents/guardians in writing of the protections from liability and hold harmless provisions that apply to the administration of asthma medication, epinephrine injectors, and opioid antagonists. In addition, a statement must be signed by a student's parent/guardian acknowledging the district's protections from liability and hold harmless provisions for these undesignated medications. Id. A similar acknowledgment must be signed by a student's parent/guardian for the self-administration of medication. 105 ILCS 5/10-22.21b(~~ee~~), ~~added by P.A. 101-205~~. See [sample exhibit 7:270-E1, School Medication Authorization Form](#), for a sample acknowledgement.



LEGAL REF.: 105 ILCS 5/10-20.14b, 5/10-22.21b, 5/22-30, and 5/22-33.  
105 ILCS 145/, Care of Students with Diabetes Act.  
410 ILCS 130/, Compassionate Use of Medical Cannabis Program Act.  
720 ILCS 550/, Cannabis Control Act.  
23 Ill.Admin.Code §1.540.

CROSS REF.: 7:285 (Anaphylaxis Prevention, Response, and Management Program)

ADMIN. PROC.: 7:270-AP1 (Dispensing Medication), 7:270-AP2 (Checklist for District Supply of Undesignated ~~Asthma~~ Medication(s), ~~Epinephrine Injectors, Opioid Antagonists, and/or Glucagon~~), 7:270-E1 (School Medication Authorization Form), 7:270-E2 (School Medication Authorization Form - Medical Cannabis)

## Students

### Anaphylaxis Prevention, Response, and Management Program <sup>1</sup>

School attendance may increase a student’s risk of exposure to allergens that could trigger anaphylaxis. Students at risk for anaphylaxis benefit from a School Board policy that coordinates a planned response in the event of an anaphylactic emergency. Anaphylaxis is a severe systemic allergic reaction from exposure to allergens that is rapid in onset and can cause death. Common allergens include animal dander, fish, latex, milk, shellfish, tree nuts, eggs, insect venom, medications, peanuts, soy, and wheat. A severe allergic reaction usually occurs quickly; death has been reported to occur within minutes. An anaphylactic reaction can also occur up to one to two hours after exposure to the allergen.

While it is not possible for the District to completely eliminate the risks of an anaphylactic emergency<sup>2</sup> when a student is at school, an Anaphylaxis Prevention, Response, and Management Program using a cooperative effort among students’ families, staff members, students, health care providers, emergency medical services, and the community helps the District reduce these risks and provide accommodations and proper treatment for anaphylactic reactions. <sup>3</sup>

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<sup>1</sup> 105 ILCS 5/2-3.190(d), added by P.A. 102-413 and renumbered P.A. 102-813, required school boards to update or implement an anaphylactic policy by 8-17-22 (six months after the Ill. State Board of Education (ISBE) distributed its model on 2-17-22) in accordance with the model policy developed by ISBE, titled *Anaphylaxis Response Policy for Illinois Schools*, (*ISBE Model*), available at: [www.isbe.net/Documents/Anaphylactic-policy.pdf](http://www.isbe.net/Documents/Anaphylactic-policy.pdf). Administrative procedures referencing the *ISBE Model* must support this policy in order to comply with the law. See the discussion in f/n 4 below and 7:285-AP, *Implementing an Anaphylaxis Prevention, Response, and Management Program* for a sample implementation procedure.

The law requires the *ISBE Model*, and in turn a district’s policy based on the *ISBE Model*, to include: (a) a procedure and treatment plan, including emergency protocols and responsibilities for school nurses and other appropriate school personnel, for responding to anaphylaxis, (b) requirements for a training course for appropriate school personnel on prevention and responding to anaphylaxis, (c) a procedure and appropriate guidelines for the development of an individualized emergency health care plan for children with a food or other allergy that could result in anaphylaxis, (d) a communication plan for intake and dissemination of information provided by Illinois regarding children with a food or other allergy that could result in anaphylaxis, including a discussion of methods, treatments, and therapies to reduce the risk of allergic reactions, including anaphylaxis, (e) strategies for reducing the risk of exposure to anaphylactic causative agents, including food and other allergens, and (f) a communication plan for discussion with children who have developed adequate verbal communication and comprehension skills and with the parents or guardians of all children about foods that are safe and unsafe and about strategies to avoid exposure to unsafe food. 105 ILCS 5/2-3.190(b), added by P.A. 102-413 and renumbered by P.A. 102-813.

The *ISBE Model* is primarily focused on item (a). Little to no guidance for schools regarding items (b) – (f) exists in it other than to generally cite to voluminous resources made available by the Centers for Disease Control and Prevention (CDC) and National Association of School Nurses (NASN). See f/n [83](#), below. This policy and its implementing procedures are designed to supplement the *ISBE Model* and further lead school officials to resources regarding items (b) – (f). 105 ILCS 5/2-3.182(b)(1-6), added by P.A. 102-413 and renumbered by P.A. 102-813.

<sup>2</sup> The *ISBE Model* does not provide a specific definition for *anaphylactic emergency*, but it appears to use that term and *anaphylaxis* interchangeably.

<sup>3</sup> This ends statement requires board work and should be discussed (what effect or impact will this district statement have on the students and the community?) and altered accordingly before board adoption. The *ISBE Model* provides that students at risk for anaphylaxis benefit from a policy that coordinates a planned response in the event of an anaphylactic emergency, and it emphasizes that an emergency plan should include all stakeholders. For more information on ends statements and governance, see IASB’s *Foundational Principles of Effective Governance* at: [www.iasb.com/conference-training-and-events/training/training-resources/foundational-principles-of-effective-governance/](http://www.iasb.com/conference-training-and-events/training/training-resources/foundational-principles-of-effective-governance/).

The Superintendent or designee shall develop and implement an Anaphylaxis Prevention, Response, and Management Program for the prevention and treatment of anaphylaxis that: <sup>4</sup>

1. Fully implements the Ill. State Board of Education (ISBE)'s model policy required by the School Code that: (a) relates to the care and response to a person having an anaphylaxis reaction, (b) addresses the use of epinephrine in a school setting, (c) provides a full food allergy and prevention of allergen exposure plan, and (d) aligns with 105 ILCS 5/22-30 and 23 Ill.Admin.Code §1.540. <sup>5</sup>
2. Ensures staff members receive appropriate training, including: (a) an in-service training program for staff who work with students that is conducted by a person with expertise in anaphylactic reactions and management, and (b) training required by law for those staff members acting as *trained personnel*, as provided in 105 ILCS 5/22-30 and 23 Ill.Admin.Code §1.540. <sup>6</sup>
3. Implements and maintains a supply of undesignated epinephrine in the name of the District, in accordance with policy 7:270, *Administering Medicines to Students*. <sup>7</sup>
4. Follows and references the applicable best practices specific to the District's needs in the Centers for Disease Control and Prevention's *Voluntary Guidelines for Managing Food*

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The clause "using a cooperative effort among students' families, staff members, students, health care providers and emergency medical services, and the community" is optional and can be removed. The purpose of the clause is to share responsibility for management among all stakeholders.

<sup>4</sup> 105 ILCS 5/10-20. To balance the requirement to implement a policy based upon the *ISBE Model* (105 ILCS 5/2-3.190(d)) with the practicalities of managing a district, this paragraph delegates the board's implementation duty to the superintendent.

<sup>5</sup> Number one outlines the goals that the legislature directed ISBE to include in the topics covered by the *ISBE Model*. 105 ILCS 5/2-3.190(b), added by P.A. 102-413 and renumbered by P.A. 102-813. The *ISBE Model* is based on the *Virginia Dept. of Education Anaphylaxis Policy*, available at: [www.doe.virginia.gov/programs-services/student-services/specialized-student-support-services/school-health-services/school-health-guidance-resources/anaphylaxis-epinephrine-training](http://www.doe.virginia.gov/programs-services/student-services/specialized-student-support-services/school-health-services/school-health-guidance-resources/anaphylaxis-epinephrine-training) [www.doe.virginia.gov/programs-services/student-services/specialized-student-support-services/school-health-services/school-health-guidance-resources/anaphylaxis-epinephrine-training](http://www.doe.virginia.gov/programs-services/student-services/specialized-student-support-services/school-health-services/school-health-guidance-resources/anaphylaxis-epinephrine-training) [www.doe.virginia.gov/support/health-medical/anaphylaxis-epinephrine/](http://www.doe.virginia.gov/support/health-medical/anaphylaxis-epinephrine/), and it incorporates NASN recommendations for a comprehensive anaphylaxis school policy. See the *NASN Sample Anaphylaxis Policy*, at: [www.nasn.org/nasn-resources/resources-by-topic/allergies-anaphylaxis](http://www.nasn.org/nasn-resources/resources-by-topic/allergies-anaphylaxis). Boards may add further expectations and include additional goals that reflect those expectations here. Ensure that any additional expectations or goals align with policy 7:270, *Administering Medicines to Students*.

<sup>6</sup> Number two includes the ~~biennial~~ in-service training program required by 105 ILCS 5/10-22.39(b-5e)(2), added by [P.A. 103-542, eff. 1-1-24 and operative 7-1-24](#), and training required by 105 ILCS 5/22-30(g) for those staff members who will be trained personnel, authorized by 105 ILCS 5/22-30(b-10), to provide or administer undesignated epinephrine in specific situations. The law authorizes school nurses and trained personnel to administer undesignated epinephrine. See sample policy 5:100, Staff Development Program ~~(at f/n 5 if the board does not list all training in the policy)~~, and [sample administrative procedure 7:270-AP2, Checklist for District Supply of Undesignated Asthma Medication\(s\), Epinephrine Injectors, Opioid Antagonists, and/or Glucagon for detail on training requirements](#). 105 ILCS 5/22-30(b-5) does not specifically state that staff members authorized to administer (student-specific) epinephrine under a student's specific individual plan must also complete the more rigorous training required for trained personnel. However, the ISBE Model is clear that "[o]nly trained personnel should administer epinephrine to a student believed to be having an anaphylactic reaction," and it requires each building-level administrator to identify at least two employees, in addition to the school nurse (if any), to be trained personnel. The more in-depth training for staff members who may administer epinephrine (whether student-specific or undesignated) is also a best practice emphasized in the CDC Guidelines, which is referenced in the ISBE Model (see f/n 8, below).

<sup>7</sup> Optional. Delete number three if a board has not adopted the **School District Supply of Undesignated Epinephrine Injectors** subhead in policy 7:270, *Administering Medicine to Students*.

*Allergies in Schools and Early Care and Education Programs and the National Association of School Nurses Allergies and Anaphylaxis Resources/Checklists.* <sup>8</sup>

5. Provides annual notice to the parents/guardians of all students to make them aware of this policy. <sup>9</sup>
6. Complies with State and federal law and is in alignment with Board policies.

Monitoring <sup>10</sup>

Pursuant to State law and policy 2:240, *Board Policy Development*, the Board reviews and makes any necessary updates to this policy at least once every three years. The Superintendent or designee shall assist the Board with its review and any necessary updates.

LEGAL REF.: 105 ILCS 5/2-3.190, 5/10-22.39(e), and 5/22-30.  
23 Ill.Admin.Code §1.540.  
*Anaphylaxis Response Policy for Illinois Schools*, published by ISBE.

CROSS REF.: 4:110 (Transportation), 4:120 (Food Services), 4:170 (Safety), 5:100 (Staff Development Program), 6:120 (Education of Children with Disabilities), 6:240 (Field Trips), 7:180 (Prevention of and Response to Bullying, Intimidation and Harassment), 7:250 (Student Support Services), 7:270 (Administering Medicines to Students), 8:100 (Relations with Other Organizations and Agencies)

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<sup>8</sup> Number four refers to the CDC's *Voluntary Guidelines for Managing Food Allergies in Schools and Early Care and Education Programs*, at: [www.cdc.gov/healthyschools/foodallergies/pdf/20\\_316712-A\\_FA\\_guide\\_508tag.pdf](http://www.cdc.gov/healthyschools/foodallergies/pdf/20_316712-A_FA_guide_508tag.pdf) (*CDC Guidelines*), which is cited in the *ISBE Model* as a resource for a "full food allergy and prevention of allergen exposure plan." Adopting the entire, voluminous *CDC Guidelines* document as policy is not practical. The *CDC Guidelines* also state that not every recommendation will be appropriate or feasible for every district's needs. The *National Association of School Nurses Allergies and Anaphylaxis Resources/Checklists*, at: <http://www.nasn.org/nasn-resources/resources-by-topic/allergies-anaphylaxis>, are also linked as a resource in the *ISBE Model*. The *ISBE Model* acknowledges that not all schools have access to school nurses or other health staff on a regular basis, and it encourages districts to take this into consideration when developing building-level plans.

<sup>9</sup> Number five is required by 105 ILCS 5/2-3.190(c), added by P.A. 102-413 and renumbered by P.A. 102-813. The notification must include contact information for parents/guardians to engage further with the district to learn more about individualized aspects of the policy. For ease of administration, districts may want to include this notification in student handbook(s). The Ill. Principal's Association (IPA) maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook* (MSH), at: [www.ilprincipals.org/msh/](http://www.ilprincipals.org/msh/) ~~[www.ilprincipals.org/resources/model-student-handbook](http://www.ilprincipals.org/resources/model-student-handbook)~~.

<sup>10</sup> 105 ILCS 5/2-3.190(e), added by P.A. 102-413 and renumbered by P.A. 102-813, provides that ISBE shall review and update its model policy at least once every three years. Although this section does not expressly state that boards must also conduct a review within this time frame, that is the logical conclusion based on a board's duty in 105 ILCS 5/10-16.7 to direct the superintendent through policy. The policy should be updated in accordance with any revisions made to the *ISBE Model*.

## Students

### Suicide and Depression Awareness and Prevention <sup>1</sup>

Youth suicide impacts the safety of the school environment. It also affects the school community, diminishing the ability of surviving students to learn and the school's ability to educate. Suicide and depression awareness and prevention are important Board goals.

#### Suicide and Depression Awareness and Prevention Program

The Superintendent or designee shall develop, implement, and maintain a suicide and depression awareness and prevention program (Program) that advances the Board's goals of increasing awareness and prevention of depression and suicide. This program must be consistent with the requirements of *Ann Marie's Law* listed below; each listed requirement, 1-6, corresponds with the list of required policy components in the School Code Section 5/2-3.166(c)(2)-(7). The Program shall include:

1. Protocols for administering youth suicide awareness and prevention education to students and staff. <sup>2</sup>
  - a. For students, implementation will incorporate Board policy 6:60, *Curriculum Content*, which implements 105 ILCS 5/2-3.139 and 105 ILCS 5/27-7 (requiring education for students to develop a sound mind and a healthy body).
  - b. For staff, implementation will incorporate Board policy 5:100, *Staff Development Program*, and teacher's institutes under 105 ILCS 5/3-14.8 (requiring coverage of the warning signs of suicidal behavior).
2. Procedures for methods of suicide prevention with the goal of early identification and referral of students possibly at risk of suicide.<sup>3</sup> Implementation will incorporate:

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<sup>1</sup> A suicide awareness and prevention policy is required by 105 ILCS 5/2-3.166(c). The first sentence of this policy is required by 105 ILCS 5/2-3.166(c)(1).

This policy contains an item on which collective bargaining may be required. See 105 ILCS 5/10-22.24b. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

<sup>2</sup> Required by 105 ILCS 5/2-3.166(c)(2). While this law is titled Youth Suicide Awareness and Prevention, it requires the policy to include protocols for administering youth suicide awareness and prevention education to *staff* and students.

For student protocols, see 105 ILCS 5/2-3.139 and 105 ILCS 5/27-7.

For staff protocols, see 105 ILCS 5/3-14.8, which requires the regional superintendents to cover the warning signs of suicidal behavior in teacher's institutes. In suburban Cook County, an Intermediate Service Center will perform the responsibilities that are performed in other locations by the regional superintendent.

<sup>3</sup> Required by 105 ILCS 5/2-3.166(c)(3). This policy adds *with the goal of* and *possibly* to modify the statute's use of "at risk of suicide." *With the goal of* acknowledges that identifying every student at risk of suicide is impossible. *Possibly* is added to inform the public that these identifications are not definitive. School staff members are not licensed medical professionals who are fully trained to make definitive determinations about whether a student is at risk of suicide, and parents/guardians should not take any referral under this requirement as such.

- a. The training required by 105 ILCS 5/10-22.39 for ~~licensed school personnel and administrators~~ all District staff who work with students to identify the warning signs of suicidal behavior in youth along with appropriate intervention and referral techniques, including methods of prevention, procedures for early identification, and referral of students at risk of suicide; and
  - b. Ill. State Board of Education (ISBE)-recommended guidelines and educational materials for staff training and professional development, along with ISBE-recommended resources for students containing age-appropriate educational materials on youth suicide and awareness, if available pursuant to *Ann Marie's Law* on ISBE's website.
3. Methods of intervention, including procedures that address an emotional or mental health safety plan for use during the school day and at school-sponsored events for a student identified as being at increased risk of suicide including those students who: (A) suffer from a mental health disorder; (B) suffer from a substance abuse disorder; (C) engage in self-harm or have previously attempted suicide; (D) reside in an out-of-home placement; (E) are experiencing homelessness; (F) are lesbian, gay, bisexual, transgender, or questioning (LGBTQ); (G) are bereaved by suicide; or (H) have a medical condition or certain types of disabilities. Implementation will incorporate paragraph number 2, above, along with Board policies: <sup>4</sup>
- a. 6:65, *Student Social and Emotional Development*, implementing the goals and benchmarks of the Ill. Learning Standards and 405 ILCS 49/15(b) (requiring student social and emotional development in the District's educational program);
  - b. 6:120, *Education of Children with Disabilities*, implementing special education requirements for the District;
  - c. 6:140, *Education of Homeless Children*, implementing provision of District services to students who are homeless;
  - d. 6:270, *Guidance and Counseling Program*, implementing guidance and counseling program(s) for students, and 105 ILCS 5/10-22.24a and 22.24b, which allow a qualified guidance specialist or any licensed staff member to provide school counseling services;

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~~Through 6-30-24, 105 ILCS 5/10-22.39, amended by P.A. 101-350, requires licensed school personnel and administrators who work with students in kindergarten through grade 12 to be trained to identify the warning signs of suicidal behavior in youth along with appropriate intervention and referral techniques. 105 ILCS 5/10-22.39(b-20), added by P.A. 103-542, eff. 1-1-24 and operative 7-1-24, requires teachers, administrators, and school support personnel who work with pupils be trained on identifying warning signs of mental illness, trauma, and suicidal behavior in youth. Such training must include, but is not limited to, appropriate intervention and referral techniques, including resources and guidelines as outlined in 105 ILCS 5/3.166. 105 ILCS 5/10-22.39, amended by P.A. 103-542, eff. 1-1-24 and operative 7-1-24, uses the phrase teachers, administrators, and school support personnel, but for brevity this material uses the phrase all District staff.~~

While very little guidance is available for students in grades 6 and below, *Ann Marie's Law* directs the Ill. State Board of Education (ISBE) to compile, develop and post these items on its website. Districts may use the Ill. Mental Health training program, established under the Ill. Mental Health First Aid Training Act, to provide the training for this in-service requirement. ~~See f/n 4 in sample policy 5:100, Staff Development Program, for further discussion of this training requirement.~~

*Ann Marie's Law* requires ISBE to develop and recommend materials. See the discussion in f/n 7, below, on ISBE-recommended materials.

See f/n 1 in sample policy 4:170, *Safety*, for information on the U.S. School Safety Clearinghouse website at: [www.SchoolSafety.gov](http://www.SchoolSafety.gov) ~~www.schoolsafety.gov~~.

~~See f/n 4 in sample policy 5:100, Staff Development Program, for further discussion of these training requirements.~~

<sup>4</sup> Required by 105 ILCS 5/2-3.166(c)(4), amended by P.A. 102-267. For further discussion of 105 ILCS 5/10-22.24b, see f/n 2 in sample policy 6:270, *Guidance and Counseling Program*. This policy adds "for use during the school day and at school-sponsored events" to inform the public about the limitations concerning what schools can realistically provide students and their parent(s)/guardian(s). See the discussion in f/n 3, above, regarding the addition of the word *possibly*.

- e. 7:10, *Equal Educational Opportunities*, and its implementing administrative procedure and exhibit, implementing supports for equal educational opportunities for students who are LGBTQ;
  - f. 7:50, *School Admissions and Student Transfers To and From Non-District Schools*, implementing State law requirements related to students who are in foster care;
  - g. 7:250, *Student Support Services*, implementing the Children’s Mental Health Act, 405 ILCS 49/ (requiring protocols for responding to students with social, emotional, or mental health issues that impact learning ability); and
  - h. State and/or federal resources that address emotional or mental health safety plans for students who are possibly at an increased risk for suicide, if available on the ISBE’s website pursuant to *Ann Marie’s Law*.
4. Methods of responding to a student or staff suicide or suicide attempt. Implementation of this requirement shall incorporate building-level Student Support Committee(s) established through Board policy 7:250, *Student Support Services*.<sup>5</sup>
  5. Reporting procedures. Implementation of this requirement shall incorporate Board policy 6:270, *Guidance and Counseling Program*, and Board policy 7:250, *Student Support Services*, in addition to other State and/or federal resources that address reporting procedures.<sup>6</sup>
  6. A process to incorporate ISBE-recommended resources<sup>7</sup> on youth suicide awareness and prevention programs, including current contact information for such programs in the District’s Suicide and Depression Awareness and Prevention Program.<sup>8</sup>

Illinois Suicide Prevention Strategic Planning Committee

The Superintendent or designee shall attempt to develop a relationship between the District and the Illinois Suicide Prevention Strategic Planning Committee, the Illinois Suicide Prevention Coalition Alliance, and/or a community mental health agency. The purpose of the relationship is to discuss how to incorporate the goals and objectives of the Illinois Suicide Prevention Strategic Plan into the District’s Suicide Prevention and Depression Awareness Program.<sup>9</sup>

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<sup>5</sup> Required by 105 ILCS 5/2-3.166(c)(5). See 7:250-AP2, *Protocol for Responding to Students with Social, Emotional, or Mental Health Needs* for information about building-level Student Support Committees. When sharing information from therapists and counselors, these committees are required to follow the Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/, and the Children’s Mental Health Act, 405 ILCS 49/, amended by P.A. 102-899, ~~eff. 1-1-23~~.

<sup>6</sup> Required by 105 ILCS 5/2-3.166(c)(6).

<sup>7</sup> 105 ILCS 5/2-3.166(b)(2)(B), directs ISBE to “compile, develop, and post on its publicly accessible Internet website both of the following, which may include materials already publicly available: (A) [r]ecommended guidelines and educational materials for training and professional development, and (B) [r]ecommended resources and age-appropriate educational materials on youth suicide awareness and prevention.”

ISBE has created the *Illinois Youth Suicide Prevention Toolkit: A Reference for Administrators, Counselors, Teachers, and Staff*, at: [www.isbe.net/Documents/Suicide-Prevention-Procedures.pdf](http://www.isbe.net/Documents/Suicide-Prevention-Procedures.pdf), as well as listing other resources at: [www.isbe.net/Pages/Suicide-Prevention.aspx](http://www.isbe.net/Pages/Suicide-Prevention.aspx).

<sup>8</sup> Required by 105 ILCS 5/2-3.166(c)(7).

<sup>9</sup> Optional. The *Illinois Suicide Prevention Strategic Plan* may be found at:

<https://dph.illinois.gov/content/dam/soi/en/web/idph/files/publications/illinoisstrategicplan2020reduced.pdf>. Its goals and objectives reflect the input of public and private organizations and stakeholders that are concerned with mental health. It is designed to reduce suicide through a positive public health approach. See also the Suicide Prevention Resource Center ~~and its Illinois~~ page at [www.sprc.org/states/illinois](http://www.sprc.org/states/illinois) ~~https://sprc.org/~~ for more information ~~on which goals in the Illinois Suicide Prevention Strategic Plan have been implemented.~~

## Monitoring <sup>10</sup>

The Board will review and update this policy pursuant to *Ann Marie's Law* and Board policy 2:240, *Board Policy Development*.

## Information to Staff, Parents/Guardians, and Students

The Superintendent shall inform each school district employee about this policy and ensure its posting on the District's website.<sup>11</sup> The Superintendent or designee shall provide a copy of this policy to the parent or legal guardian of each student enrolled in the District.<sup>12</sup> Student identification (ID) cards, the District's website, and student handbooks and planners will contain the support information as required by State law. <sup>13</sup>

## Implementation

This policy shall be implemented in a manner consistent with State and federal laws, including the Student Confidential Reporting Act, 5 ILCS 860/, Children's Mental Health Act, 405 ILCS 49/, Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/, and the Individuals with Disabilities Education Act, 42 U.S.C. §12101 et seq.

The District, Board, and its staff are protected from liability by the Local Governmental and Governmental Employees Tort Immunity Act. Services provided pursuant to this policy: (1) do not replace the care of a physician licensed to practice medicine in all of its branches or a licensed medical practitioner or professional trained in suicide prevention, assessments and counseling services, (2) are strictly limited to the available resources within the District, (3) do not extend beyond the school day

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<sup>10</sup> Required by 105 ILCS 5/2-3.166(d).

<sup>11</sup> Id. See [sample exhibit 2:250-E2, Immediately Available District Public Records and Web-Posted Reports and Records](#). Consult the board attorney about whether a signature is required to prove compliance with the law's specific requirement that *each school district employee* and *each student enrolled in the district* are informed of and/or provided a copy of the policy.

<sup>12</sup> Id. Consult the board attorney about placing the policy in the student handbook instead of and/or in addition to providing a hard copy to each student's parent/guardian. Members of the Ill. Principals Assoc. (IPA) may subscribe to the IPA's Model Student Handbook Service, which are aligned with IASB's policy services. For more information, see: <https://ilprincipals.org/msh/>.

<sup>13</sup> 105 ILCS 5/10-20.76, added by P.A. 102-134 and renumbered by P.A. 102-813 (district-issued ID cards for students, and information on districts' websites); 105 ILCS 5/10-20.81, added by P.A. 102-416, ~~and~~ renumbered by P.A. 102-813, and amended by P.A. 103-143 (districts must insert ~~either contact information for the National Suicide Prevention Lifeline, the Crisis Text Line, and the Safe2Help Illinois helpline or a local suicide prevention hotline~~ on student ID cards, and contact ~~information must~~ identify each helpline that may be contacted through text messaging; ~~and include~~ the same must be included in student handbooks and planners (if a student planner is custom printed by a district or its schools for distribution to students in any of grades 6 through 12)). See f/n 1 in [sample administrative procedure 7:290-AP, Resource Guide for Implementation of Suicide and Depression Awareness and Prevention Program](#), for further information regarding Safe2Help Illinois.



and/or school-sponsored events, and (4) cannot guarantee or ensure the safety of a student or the student body.<sup>14</sup>

LEGAL REF.: 42 U.S.C. § 12101 et seq., Individuals with Disabilities Education Act.  
105 ILCS 5/2-3.166, 105 ILCS 5/2-3.139, 5/3-14.8, 5/10-20.76, 5/10-20.81, 5/10-22.24a, 5/10-22.24b, 5/10-22.39, 5/14-1.01 et seq., 5/14-7.02, and 5/14-7.02b, 5/27-7.  
5 ILCS 860/, Student Confidential Reporting Act.  
405 ILCS 49/, Children’s Mental Health Act.  
740 ILCS 110/, Mental Health and Developmental Disabilities Confidentiality Act.  
745 ILCS 10/, Local Governmental and Governmental Tort Immunity Act.

CROSS REF.: 2:240 (Board Policy Development), 5:100 (Staff Development Program), 6:60 (Curriculum Content), 6:65 (Student Social and Emotional Development), 6:120 (Education of Children with Disabilities), 6:270 (Guidance and Counseling Program), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:250 (Student Support Services)

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**14 Consult the board attorney for guidance concerning liability in this area.** Except for cases of willful and wanton conduct, the Local Governmental and Governmental Employees Tort Immunity Act, 745 ILCS 10/, likely protects districts from liability for failure to properly identify and/or respond to a student’s mental health issue that results in suicide. See 745 ILCS 10/3-108 and Grant v. Bd. of Trustees of Valley View Sch. Dist. No. 365-U, 286 Ill.App.3d. 642 (3rd Dist. 1997). However, attorneys have concerns that failing to inform parents/guardians that services required under *Ann Marie’s Law* are limited may open districts to potential litigation if services provided under the policy fail or are deemed inadequate. Every situation is fact specific and the issues require careful evaluation. A disclaimer, such as the one presented here, may not be sufficient. A district may take several actions, after discussion with its board attorney, to minimize liability, such as adding limiting phrases (see discussions in f/ns 3 & 4) and ensuring other policies are followed. Ultimately, the best way to minimize liability is to be sure that the district’s insurance policies cover the training and other requirements under *Ann Marie’s Law*.

In addition to the Tort Immunity Act, school officials and districts may also be entitled to qualified immunity in civil rights lawsuits that seek to hold them liable for a suicide. See Sanford v. Stiles, 456 F.3d 298 (3d Cir. 2006); Martin v. Shawano-Gresham Sch. Dist., 295 F.3d 701 (7th Cir. 2002); Armijo v. Wagon Mount Pub. Schs., 159 F.3d 1253 (10th Cir. 1998). Yet, recent trends in student-on-student harassment cases are emerging where parents whose children die of suicide allege that a school’s failure to properly identify or respond to the child’s mental health issues was a contributing cause for the suicide.

In these cases, the parents ask courts to apply Davis v. Monroe Cnty. Bd. of Educ., 526 U.S. 629 (1999), to *Section 504* cases. Under the *Davis standard*, parents must prove that: (1) their child was an individual with a disability; (2) their child was harassed based upon his or her disability; (3) the harassment was sufficiently severe or pervasive that it altered the condition of the child’s education and created an abusive educational environment; (4) the school district knew about the harassment; and (5) the school district was deliberately indifferent to the harassment.

While not precedential in Illinois, several cases illustrate the uncertainty of a school district’s liability in the emerging area of suicide prevention liability and/or failure to properly respond to a student’s mental health issues and may indicate a trend toward courts allowing juries to determine a district’s liability: Armijo (denying summary judgment to two individual defendant district employees based on a state-created danger theory and as to all defendant employees based on a special relationship theory); Estate of Barnwell ex rel. Barnwell v. Watson, 44 F.Supp.3d 859 (E.D. Ark. 2014) (allowing plaintiff parents to move forward in litigation alleging that school district’s *Section 504* failures contributed to their son’s suicide, but summary judgment in favor of school district eventually granted); and Walsh v. Tehachapi Unified Sch. Dist., 997 F.Supp.2d 1071 (E.D. Ca. 2014) (denying summary judgment because the school district’s conduct may have been the proximate cause of the student suffering an uncontrollable impulse to commit suicide). But see Estate of Lance v. Lewisville Indep. Sch. Dist., 743 F.3d 982 (5th Cir. 2014) (finding in favor of the school district because the claimed special relationship theory and state-created danger theories were not actionable).

## Students

### Use of Educational Technologies; Student Data Privacy and Security <sup>1</sup>

Educational technologies used in the District shall further the objectives of the District's educational program, as set forth in Board policy 6:10, *Educational Philosophy and Objectives*, align with the curriculum criteria in policy 6:40, *Curriculum Development*, and/or support efficient District operations. The Superintendent shall ensure that the use of educational technologies in the District meets the above criteria.

The District and/or vendors under its control may need to collect and maintain data that personally identifies students in order to use certain educational technologies for the benefit of student learning or District operations.

Federal and State law govern the protection of student data, including school student records and/or *covered information*.<sup>2</sup> The sale, rental, lease, or trading of any school student records or covered

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<sup>1</sup> The Student Online Personal Protection Act (SOPPA) (105 ILCS 85/), ~~amended by P.A. 101-516~~, controls the content of this policy. SOPPA specifically requires boards to adopt a policy for designating which district employees are authorized to enter into agreements with *operators* (see **Operator Contracts** subhead). SOPPA is the State law that governs how educational technology companies, schools, and the Ill. State Board of Education (ISBE) use and protect *covered information* of students. The amendments to SOPPA were intended to strengthen protections for online student data, in part by centralizing the vetting and contracting process within schools, and to give parents ready access to information about how their children's data is being used at school. SOPPA does not, however, require a district to obtain parent opt-in or separate consent for the use of online services or applications, nor is such consent required if the operator is acting as a *school official* pursuant to the delineated exception in the Family Educational Rights and Privacy Act's (FERPA)(20 U.S.C. §1232g) implementing regulations. See 34 C.F.R. §99.3(a). A helpful resource published by the Ill. Council of School Attorneys, *Answers to FAQs Regarding the Student Online Personal Protection Act and Public Schools*, is available to IASB members on IASB's website at: [www.iasb.com/policy-services-and-school-law/guidance-and-resources/student-online-personal-protection-act/](http://www.iasb.com/policy-services-and-school-law/guidance-and-resources/student-online-personal-protection-act/). Additional SOPPA resources are available through ISBE at: [www.isbe.net/Pages/Educational-Technology.aspx](http://www.isbe.net/Pages/Educational-Technology.aspx).

105 ILCS 5/10-20.74, ~~added by P.A. 101-654~~, requires districts to submit to the ISBE an annual report about its educational technology capacity and policies, including device availability for students, school-based access and infrastructure, professional learning and development training opportunities, and documentation of developmentally appropriate computer literacy instruction embedded in the district's curriculum at each grade level. See 2:150-AP, *Superintendent Committees*, at f/n 20, for a list of sample **PRESS** policies that apply to this submission. See also policy 6:60, *Curriculum Content*, at f/n 265, and 6:300-E2, *State Law Graduation Requirements*, for more information about computer literacy requirements.

<sup>2</sup> See [sample policy 7:340, Student Records](#), and its implementing [sample administrative procedure, 7:340-API, School Student Records](#), for requirements addressing school student records under federal and State law. SOPPA does not override or otherwise supersede the requirements of FERPA or the Ill. School Student Records Act (ISSRA) (105 ILCS 10/). 105 ILCS 85/30(9), ~~amended by P.A. 101-516~~. [Additionally, the Children's Online Privacy Protection Act \(COPPA\)\(15 U.S.C. §6501 et seq.; 16 C.F.R. Part 312\), requires certain operators of commercial websites and online services to obtain verifiable parental consent before collecting personal information of children under 13. Under certain conditions, operators can rely upon school districts to consent on behalf of parents when the programs being offered are solely for the benefit of students or a district. See \[www.ftc.gov/business-guidance/resources/complying-coppa-frequently-asked-questions\]\(http://www.ftc.gov/business-guidance/resources/complying-coppa-frequently-asked-questions\) at section N for more information.](#)

*Covered information* is a broader concept than student records; and may include information that does not qualify as a student record. However, even if the covered information is not maintained as a student record, it may still qualify as a *public record* under the Local Records Act (50 ILCS 205/), such that a district would have an obligation to maintain it. Consult the board attorney for guidance on these issues.

information by the District is prohibited.<sup>3</sup> Protecting such information is important for legal compliance, District operations, and maintaining the trust of District stakeholders, including parents, students and staff. <sup>4</sup>

### Definitions <sup>5</sup>

*Covered information* means personally identifiable information (PII) or information linked to PII in any media or format that is not publicly available and is any of the following: (1) created by or provided to an operator by a student or the student’s parent/guardian in the course of the student’s or parent/guardian’s use of the operator’s site, service or application; (2) created by or provided to an operator by an employee or agent of the District; or (3) gathered by an operator through the operation of its site, service, or application.

*Operators* are entities (such as educational technology vendors) that operate Internet websites, online services, online applications, or mobile applications that are designed, marketed, and primarily used for K-12 school purposes. <sup>6</sup>

*Breach* means the unauthorized acquisition of computerized data that compromises the security, confidentiality or integrity of covered information maintained by an operator or the District. <sup>7</sup>

### Operator Contracts

The Superintendent or designee designates which District employees are authorized to enter into written agreements with operators for those contracts that do not require separate Board approval.<sup>8</sup> Contracts

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<sup>3</sup> 105 ILCS 85/26(1), ~~added by P.A. 101-516~~. SOPPA includes a clarification that schools and operators are not prohibited from producing and distributing, free or for consideration, student class photos and yearbooks to the school, students, parents, or others authorized by parents, as long as there is a written agreement between the operator and district. 105 ILCS 85/30(10), ~~amended by P.A. 101-516~~.

<sup>4</sup> SOPPA permits, but does not require, districts to designate an appropriate staff person as a Privacy Officer, who may also be an official records custodian under ISSRA, to carry out the duties and responsibilities assigned to schools and to ensure a district’s compliance with the requirements of SOPPA. 105 ILCS 85/27(f), ~~added by P.A. 101-516~~. For boards that wish to designate a Privacy Officer, add the below sentence to the end of the paragraph. Boards may designate an individual other than the Superintendent to serve in the capacity of Privacy Officer, such as a Business Manager, IT Director, or District Records Custodian.

The Board designates the Superintendent to serve as Privacy Officer, who shall ensure the District complies with the duties and responsibilities required of it under the Student Online Personal Protection Act, 105 ILCS 85/, ~~amended by P.A. 101-516~~.

<sup>5</sup> 105 ILCS 85/5, ~~amended by P.A. 101-516~~. See f/n 3 above for more discussion about *covered information*.

<sup>6</sup> SOPPA specifically provides that it does not apply to general audience websites, online services, online applications, or mobile applications, even if login credentials are required to access the general audience sites, services, or applications. 105 ILCS 85/30(3), ~~amended by P.A. 101-516~~. Consult the board attorney for guidance regarding whether certain applications that may be widely used by schools, but which may not have been originally marketed to K-12 (e.g., certain video conference applications), come within the scope of SOPPA.

<sup>7</sup> Operators must notify districts of a breach of covered information within the most expedient time possible and without reasonable delay, but no later than 30 calendar days after the determination that a breach has occurred. 105 ILCS 85/15(5), ~~added by P.A. 101-516~~.

<sup>8</sup> This statement is required by 105 ILCS 85/27(b), ~~added by P.A. 101-516~~. SOPPA provides that any agreement entered into in violation of SOPPA “is void and unenforceable as against public policy.” *Id.* SOPPA does not provide for a private right of action against school districts; the Ill. Attorney General has enforcement authority under SOPPA through the Consumer Fraud Deceptive Trade Practices Act. 105 ILCS 85/35.

between the Board and operators shall be entered into in accordance with State law and Board policy 4:60, *Purchases and Contracts*, and shall include any specific provisions required by State law.<sup>9</sup>

### Security Standards

The Superintendent or designee shall ensure the District implements and maintains reasonable security procedures and practices that otherwise meet or exceed industry standards designed to protect covered information from unauthorized access, destruction, use, modification, or disclosure.<sup>10</sup> In the event the District receives notice from an operator of a breach or has determined a breach has occurred, the Superintendent or designee shall also ensure that the District provides any breach notifications required by State law.<sup>11</sup>

LEGAL REF.: 20 U.S.C. §1232g, Family and Educational Rights and Privacy Act; ~~implemented by~~ 34 C.F.R. Part 99.  
105 ILCS 10/, Ill. School Student Records Act.  
105 ILCS 85/, Student Online Personal Protection Act.  
23 Ill. Admin. Code Part 380.

CROSS REF.: 4:15 (Identity Protection), 4:60 (Purchases and Contracts), 6:235 (Access to Electronic Networks), 7:340 (Student Records)

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<sup>9</sup> SOPPA requires specific provisions be included in a contract with any operator that seeks to receive covered information from a school district. 105 ILCS 85/15(4) and 85/27(g), ~~added by P.A. 101-516~~. See 7:345-AP, *Use of Educational Technologies; Student Data Privacy and Security*, for details.

<sup>10</sup> 105 ILCS 85/27(e), ~~added by P.A. 101-516~~. SOPPA does not provide specifics regarding security procedures or practices, nor is there a formal, nationalized standard specific to K-12, but the law does require ISBE to make available on its website guidance for schools pertaining to reasonable security procedures and practices. 105 ILCS 85/28, ~~added by P.A. 101-516~~. ISBE has endorsed a security best practices document published by the Learning Technology Center of Illinois (an ISBE grant-funded program) as its guidance that all districts should follow, which is available at: [www.isbe.net/Pages/Educational-Technology.aspx](http://www.isbe.net/Pages/Educational-Technology.aspx) (see Reasonable Security Practices dropdown). The Learning Technology Center of Illinois offers cybersecurity training to administrators and educators throughout the State. See [www.ltc.org](http://www.ltc.org). The U.S. Dept. of Education has also issued multiple guidance documents on security best practices for schools, available at: <https://studentprivacy.ed.gov/security>, and the federal Cybersecurity and Infrastructure Security Agency issued an online toolkit and report, *Protecting Our Future: Partnering to Safeguard K-12 Organizations from Cybersecurity Threats* (Jan. 2023), which includes recommended cybersecurity guidelines for K-12 schools, at: [www.cisa.gov/protecting-our-future-cybersecurity-k-12](http://www.cisa.gov/protecting-our-future-cybersecurity-k-12). Additional resources, including *Digital Infrastructure Briefs* (Aug. 2023), are also available at: <https://tech.ed.gov/infrastructure/>.

<sup>11</sup> In the event of a breach of covered information of students, SOPPA requires school districts to provide two types of notices: (1) individual notices to the parents of students whose covered information was involved in the breach and (2) a more general notice about the breach on the district's website (or at the district administrative office, if it does not maintain a website) if the breach involved 10% or more of the district's student enrollment. 105 ILCS 85/27(a)(5) & (d), ~~added by P.A. 101-516~~. See [sample administrative procedure](#) 7:345-AP, *Use of Educational Technologies; Student Data Privacy and Security*, for details about the required notices.

## Community Relations

### Visitors to and Conduct on School Property <sup>1</sup>

The following definitions apply to this policy:

**School property** - District and school buildings, grounds, and parking areas; vehicles used for school purposes; and any location used for a School Board meeting, school athletic event, or other school-sponsored or school-sanctioned events or activities. <sup>2</sup>

**Visitor** - Any person other than an enrolled student or District employee.

All visitors to school property are required to report to the Building Principal’s office and receive permission to remain on school property. All visitors must sign a visitors’ log, show identification, and wear a visitor’s badge. When leaving the school, visitors must return their badge. On those occasions when large groups of parents/guardians, friends, and/or community members are invited onto school property or when community members are attending Board meetings, visitors are not required to sign in but must follow school officials’ instructions. Persons on school property without permission will be directed to leave and may be subject to criminal prosecution. <sup>3</sup>

Except as provided in the next paragraph, any person wishing to confer with a staff member should contact that staff member to make an appointment. Conferences with teachers are held, to the extent possible, outside school hours or during the teacher’s conference/preparation period.

Requests to access a school building, facility, and/or educational program, or to interview personnel or a student for purposes of assessing the student’s special education needs, should be made at the

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<sup>1</sup> State or federal law controls this policy’s content. Boards may make and enforce reasonable rules of conduct and sportsmanship for school events and deny future admission to school events to violators for up to one year provided a notice and hearing are given. 105 ILCS 5/24-24. See f/n 20 below.

This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

<sup>2</sup> School-sponsored or school-sanctioned events or activities aligns with the text of 105 ILCS 5/27-23.7(a).

<sup>3</sup> This paragraph is up to the local board’s discretion. Many public school buildings were built before school security was the concern it is now. A first step in creating a secure environment is to manage access to school buildings. Along with limiting the entrances that may be used, school officials should post signs with instructions for visitors and a warning to trespassers. Signs may be as simple as “Visitors Must Report to Office” and “No Trespassing – Violators will be Prosecuted.” Applicable criminal trespass laws include: 720 ILCS 5/21-1 (criminal damage to property); 5/21-1.2 (institutional vandalism); 5/21-3 (criminal trespass to real property); 5/21-5 (criminal trespass to State supported land); 5/21-5.5 (criminal trespass to a safe school zone); 5/21-9 (criminal trespass to a place of public amusement); 5/21-11 (distributing or delivering written or printed solicitation on school property). This sample policy identifies board members as visitors.

The following optional provisions must be modified according to local conditions:

**Option 1:** The Superintendent or designee may post certain school facilities for the community’s use on non-school days when they are not being used for school purposes.

**Option 2:** The Superintendent or designee shall manage a program to allow community use of the following facilities on non-school days, during the daylight, provided they are not being used for school purposes: tennis courts, playground, and track.

appropriate building. Access shall be facilitated according to guidelines from the Superintendent or designee. <sup>4</sup>

The School District expects mutual respect, civility, and orderly conduct among all people on school property or at a school event. No person on school property or at a school event (including visitors, students, and employees) shall perform any of the following acts:

1. Strike, injure, threaten, harass, or intimidate a staff member, Board member, sports official or coach, or any other person. <sup>5</sup>
2. Behave in an unsportsmanlike manner, or use vulgar or obscene language.
3. Unless specifically permitted by State law, possess a weapon, any object that can reasonably be considered a weapon or looks like a weapon, or any dangerous device. <sup>6</sup>
4. Damage or threaten to damage another's property. <sup>7</sup>
5. Damage or deface school property. <sup>8</sup>
6. Violate any Illinois law,<sup>9</sup> or town or county ordinance.
7. Smoke or otherwise use tobacco products. <sup>10</sup>

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<sup>4</sup> 105 ILCS 5/14-8.02(g-5). See [sample](#) administrative procedure 6:120-AP2, *Access to Classrooms and Personnel*, and [sample](#) exhibit 6:120-AP2, E1, *Request to Access Classroom(s) or Personnel for Special Education Evaluation and/or Observation Purposes*.

<sup>5</sup> See e.g., 720 ILCS 5/12-2 (aggravated assault); [5/12-2\(b\)\(9\) \(aggravated assault against a sports official or coach\)](#); 5/12-3.05(c) (aggravated battery on public property); 5/12-3.05(d)(3) (aggravated battery against a school employee); ~~[5/12-2\(b\)\(9\) \(aggravated assault against a sports official or coach\)](#)~~; 5/12-9 (threats to public officials); 5/24-1.2 (discharge of a firearm).

<sup>6</sup> With one exception, a license to carry a firearm does not permit an individual to carry a concealed firearm on or into any building, real property, and/or parking area under the control of an elementary or secondary school, or any bus paid for in whole or part with public funds. 430 ILCS 66/65(a). The following optional provision adds that exception, which is a restatement of 430 ILCS 66/65(b), to the text in number 3:

An individual licensed to carry a concealed firearm under the Illinois Firearm Concealed Carry Act is permitted to: (a) carry a concealed firearm within a vehicle into a parking area controlled by a school or the District and may store a firearm or ammunition concealed in a case within a locked vehicle or locked container out of plain view within the vehicle in the parking area, and/or (b) carry a concealed firearm in the immediate area surrounding his or her vehicle in a parking area controlled by a school or the District for the limited purpose of storing or retrieving a firearm within the vehicle's trunk.

Other relevant weapons laws include 705 ILCS 405/5-407 ([juvenile in possession of a firearm](#)), 720 ILCS 5/24-9 ([firearms: child protection](#)); ~~7205 ILCS 5/440-424-1(c) (unlawful use of weapons in schools); 5/110-10 (firearms in schools)~~; 720 ILCS 5/24-1.2, 5/24-3 (discharge of firearm and unlawful delivery or sale of a firearm near school); 705 ILCS 405/5-130, 405/5-805 (minor 15 years or older who commits aggravated battery with a firearm at school is tried as an adult).

<sup>7</sup> See e.g., 720 ILCS 5/2-19.5 ([definition of school](#)), 5/16-1 ([theft](#)), 5/18-1 ([robbery; aggravated robbery](#)), 5/19-1 ([burglary](#)), and 21-1 ([criminal damage to property](#)), ~~and 5/21-1.3 (property damage penalties)~~.

<sup>8</sup> See e.g., 720 ILCS 5/21-1.01 ([criminal damage to government supported property](#)), [21-1.2 \(institutional vandalism\)](#), and 21-1.3 ([criminal defacement of property](#)).

<sup>9</sup> See e.g., 720 ILCS 5/11-9.3 (presence within school zone by child sex offenders prohibited), 5/11-14 (prostitution); ~~5/11-15 (repealed)~~, and 5/11-18 (patronizing a prostitute); 720 ILCS 5/21-11 (soliciting students to commit illegal acts).

<sup>10</sup> Required by 105 ILCS 5/10-20.5b and 410 ILCS 82/1 *et seq.* Federal law prohibits smoking inside schools (20 U.S.C. ~~§79736083~~); districts failing to comply with the federal no-smoking ban risk a civil penalty of up to \$1000 per violation per day.

8. Distribute, consume, use, possess, or be impaired by or under the influence of an alcoholic beverage, cannabis, other lawful product, or illegal drug. <sup>11</sup>
9. Be present when the person's alcoholic beverage, cannabis, other lawful product, or illegal drug consumption is detectable, regardless of when and/or where the use occurred. <sup>12</sup>
10. Use or possess medical cannabis, unless he or she has complied with policy 7:270, *Administering Medicines to Students*, implementing *Ashley's Law*. <sup>13</sup>
11. Impede, delay, disrupt, or otherwise interfere with any school activity or function (including using cellular phones in a disruptive manner). <sup>14</sup>
12. Enter upon any portion of school premises at any time for purposes other than those that are lawful and authorized by the Board.
13. Operate a motor vehicle: (a) in a risky manner, (b) in excess of 20 miles per hour, or (c) in violation of an authorized District employee's directive. <sup>15</sup>
14. Engage in any risky behavior, including roller-blading, roller-skating, or skateboarding. <sup>16</sup>
15. Violate other District policies or regulations, or a directive from an authorized security officer or District employee.
16. Engage in any conduct that interferes with, disrupts, or adversely affects the District or a School function.

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<sup>11</sup> See 720 ILCS 570/407 (delivery of controlled substance on or within 1000 feet of a school) and 410 ILCS 705/ ([Cannabis Regulation and Tax Act](#)), ~~added by P.A. 101-27~~. See also the discussion in f/n 5 and 6 of [sample](#) policy 5:50, *Drug- and Alcohol-Free Workplace; E-Cigarette, Tobacco, and Cannabis Prohibition*; this statement must be consistent with employee working conditions and employee conduct standards (see [sample administrative procedure](#) 5:120-AP2, *Employee Conduct Standards*).

<sup>12</sup> Each board and superintendent may want to engage in a conversation regarding how the district might partner with local law enforcement to enforce this policy and the penalties available under the Cannabis Regulation [and](#) Tax Act, e.g., posting signs barring community members from bringing in weapons, alcohol, cannabis, tobacco, etc. Signage reminding visitors of the policy may make it easier for staff and/or local law enforcement to enforce.

<sup>13</sup> Managing cannabis on district property and the school setting presents many unsettled and complex legal issues. To legally use medical cannabis in Illinois, an individual must first become a *registered qualifying patient*. The use of cannabis by a *registered qualifying patient* is permitted only in accordance with the Compassionate Use of Medical Cannabis Program Act (Medical Cannabis Program Act (MCPA)). 410 ILCS 130/, ~~amended by P.A. 101-363, eff. 1-1-20 and scheduled to be repealed on 7-1-20~~. There are many situations in which no one, even a *registered qualifying patient*, may possess or use cannabis, including (a) in a school bus, (b) on the grounds of any preschool or primary or secondary school, or (c) in close physical proximity to anyone under the age of 18 years of age. 410 ILCS 130/30(a)(2), (3), and (4), ~~amended by P.A. 101-363, eff. 1-1-20 and scheduled to be repealed on 7-1-20~~. However, *Ashley's Law*, 105 ILCS 5/22-33(b) and (g), ~~added by P.A. 100-660~~, allows *designated caregivers* to administer medical cannabis infused products to students who are *registered qualifying patients* at school or on the school bus, and requires school boards to adopt a policy to implement the law unless the district would lose federal funding. See [sample](#) policy 7:270, *Administering Medicines to Students* and its f/n 21<sup>9</sup>.

Remember that *Ashley's Law* requires the designated caregiver to remove the product from the school premises or the school bus after administering it to the student, so as a result, policy 7:270, *Administering Medicines to Students*, requires immediate removal of medical cannabis infused products after administering them to the student (see f/n ~~25-26~~ of that policy for further discussions).

<sup>14</sup> See e.g., 720 ILCS 5/21.2-1 [et seq.](#) (interference with a public institution of education).

<sup>15</sup> See e.g., 625 ILCS 5/11-605 (special speed limit zones). 625 ILCS 5/12-610.1(e), prohibits wireless telephone use while operating a motor vehicle on a roadway in a school speed zone except for emergency purposes. [625 ILCS 5/12-803\(f\), added by P.A. 103-404, prohibits motor vehicle drivers from making contact with any portion of a stopped school bus or making contact with a school child within 30 feet of the school bus.](#)

<sup>16</sup> The pivotal question in a negligence case is whether the defendant acted reasonably. A ban on roller-blading demonstrates that the district took reasonable steps to reduce the risk of injury.

### Convicted Child Sex Offender <sup>17</sup>

State law prohibits a child sex offender from being present on school property or loitering within 500 feet of school property when persons under the age of 18 are present, unless the offender is:

1. A parent/guardian of a student attending the school and has notified the Building Principal of his or her presence at the school for the purpose of: (i) attending a conference at the school with school personnel to discuss the progress of his or her child academically or socially, (ii) participating in child review conferences in which evaluation and placement decisions may be made with respect to his or her child regarding special education services, or (iii) attending conferences to discuss other student issues concerning his or her child such as retention and promotion; or
2. Has permission to be present from the Board, Superintendent, or Superintendent's designee. If permission is granted, the Superintendent or Board President shall provide the details of the offender's upcoming visit to the Building Principal.

In all cases, the Superintendent, or designee who is a certified employee, shall supervise a child sex offender whenever the offender is in a child's vicinity.

### Exclusive Bargaining Representative Agent <sup>18</sup>

Upon notifying the Building Principal's office, authorized agents of an exclusive bargaining representative will be provided reasonable access to employees in the bargaining unit they represent in accordance with State law. Such access shall be conducted in a manner that will not impede the normal operations of the District.

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<sup>17</sup> 720 ILCS 5/11-9.3(a). The statute assigns the child sex offender the "duty to remain under the direct supervision of a school official." In order to ensure this happens and to protect students, the sample policy requires the superintendent, or designee who is a certified employee, to supervise a child sex offender whenever the offender is in a child's vicinity. See also the Sex Offender Community Notification Law (730 ILCS 152/101 *et seq.*); Murderer and Violent Offender Against Youth Community Notification Law (730 ILCS 154/75.- ~~154/105~~); [sample](#) policy 4:170, *Safety*; and [sample](#) administrative procedure 4:175-API, *Criminal Offender Notification Laws; Screening*.

<sup>18</sup> 105 ILCS 5/-24-25; 115 ILCS 5/3(c).~~added by P.A. 101-620~~. If a provision contained in a collective bargaining agreement addresses this issue, it will supersede this policy for those covered employees. In such cases, the board policy should be amended to state, "Please refer to the applicable collective bargaining agreement." For employees whose collective bargaining agreement does not address this subject, the policy should reflect the board's current practice. Consult the board attorney about this subhead. It is an item on which collective bargaining may be required. Any policy that impacts wages, hours, or terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. Amend the language to reflect what is recommended by the board attorney.

The School Code permits bargaining representatives to meet with employees during *duty-free time* upon notice to the school office. The Ill. Educational Labor Relations Act,~~amended by P.A. 101-620~~, expanded the rights of access by bargaining representatives to also include meeting with employees during the employee work day if the meeting: (1) is to investigate and discuss grievances and workplace-related complaints (no time limit is specified) or (2) is with a newly hired employee within the first two weeks of employment (or on a later date if mutually agreed upon by the employee and bargaining representative) for one hour or less. In those circumstances, the district may not dock employee pay or charge leave time. 115 ILCS 5/3(c). However, the access must be *reasonable* and "shall at all times be conducted in a manner so as not to impede normal operations." *Id.* Consult the board attorney for guidance regarding specific requests and whether, if granted, they would impede normal operations, e.g., requests for access to staff while they are performing instructional or supervisory duties. Determining whether normal operations are impeded will likely depend upon the position and duties of the employee in the district.



## Enforcement

Any staff member may request identification from any person on school property; refusal to provide such information is a criminal act.<sup>19</sup> The Building Principal or designee shall seek the immediate removal of any person who refuses to provide requested identification.

Any person who engages in conduct prohibited by this policy may be ejected from [or denied admission to school property in accordance with State law.](#)<sup>20</sup> The person ~~is~~ also [may be](#) subject to being denied admission to school [athletic or extracurricular events](#) ~~or meetings~~ for up to one calendar year [in accordance with the procedures below.](#) <sup>21</sup>

### Procedures to Deny Future Admission to [Athletic or Extracurricular School Events](#) ~~or Meetings~~

Before any person may be denied admission to [athletic or extracurricular](#) school events ~~or meetings as provided in this policy~~, the person has a right to a hearing before the Board. The Superintendent may refuse the person admission pending such hearing. The Superintendent or designee must provide the person with a hearing notice, delivered or sent by certified mail with return receipt requested, at least ten days before the Board hearing date. The hearing notice must contain: <sup>22</sup>

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<sup>19</sup> ~~Id.~~ [105 ILCS 5/24-25. Refusal to provide such information is a Class A misdemeanor.](#)

<sup>20</sup> [105 ILCS 5/10-20.5 \(rules\), 5/10-22.10 \(control and supervision of school houses and school grounds\); 720 ILCS 5/21-3 \(criminal trespass to real property\), 5/21-5 \(criminal trespass to State supported land\), 5/21-5.5 \(criminal trespass to a safe school zone\). See f/n 3, above.](#)

<sup>21</sup> See [Nuding v. Cerro Gordo Comm. Unit Sch. Dist.](#), 313 Ill. App.3d 344 (4th Dist. 2000) (board was authorized to ban parent from attending all school events and extracurricular activities by 105 ILCS 5/24-24 [and to enforce conduct rules at its meetings by 105 ILCS 5/10-20.5](#); the ban was based on the parent's exposing a toy gun and a pocketknife at a board meeting); [Jordan ex rel. Edwards v. O'Fallon Tp. High Sch. Dist.](#), 302 Ill.App.3d 1070 (5th Dist. 1999) (105 ILCS 5/24-24 did not give a high school athlete the right, under the due process clause, to a notice and hearing before he could be suspended from participating in interscholastic athletics; the statute expands the schools' authority to ban people from attending school events for breaching conduct and sportsmanship code).

<sup>22</sup> ~~Id.~~ [105 ILCS 5/24-24. If a violator is a student, the hearing should be held in a closed meeting. 5 ILCS 120/2\(c\)\(9\). Otherwise, a hearing regarding denial of admission to school events or property pursuant to 105 ILCS 5/24-24 may take place in an open meeting or in a closed meeting so long as the board prepares and makes available for public inspection a written decision setting forth its determinative reasoning. 5 ILCS 120/2\(c\)\(4.5\), added by P.A. 103-311. Note: while 5 ILCS 120/2\(c\)\(4.5\), added by P.A. 103-311, refers to school events or property, 105 ILCS 5/24-24 only authorizes boards to deny admission to athletic and extracurricular events. The term events is arguably broader than property as school events may take place offsite; consult the board attorney for guidance.](#)

[Some boards prefer an open meeting hearing to make it publicly known what alleged conduct could result in someone being denied admission to athletic or extracurricular events, while others prefer a closed meeting hearing so as not to provide a public platform to someone alleged to have engaged in prohibited conduct. Consult the board attorney to determine the best approach for the district and to ensure alignment with local practices and conditions.](#)

[For ease of administration, this text is broader than aligns with 105 ILCS 5/24-24, and only requires a hearing for denying admission to both school events and meetings. The court in Nuding \(see f/n 20, above\) did not specifically answer whether a board meeting qualified as a school event under 105 ILCS 5/24-24, but it upheld the board's right to enforce conduct rules at its meetings under 105 ILCS 5/10-20.5.](#)

[For boards that wish to narrow the policy text to mirror 105 ILCS 5/24-24, delete the following text from the subhead and the first sentence of the policy:](#)

[Procedures to Deny Future Admission to School Events or Meetings](#)

[Before any person may be denied admission to school events or meetings as provided in this policy, the person has a right to a hearing before the Board.](#)

1. The date, time, and place of the Board hearing;
2. A description of the prohibited conduct;
3. The proposed time period that admission to school events will be denied; and
4. Instructions on how to waive a hearing. <sup>23</sup>

LEGAL REF.: Nuding v. Cerro Gordo Community Unit School Dist., 313 Ill. App.3d 344 (4th Dist. 2000).

20 U.S.C. §~~797184~~ et seq., Pro-Children Act of ~~2001~~1994.

105 ILCS 5/~~10-20.5~~, 10-20.5b, 5/10-22.10, 5/22-33, 5/24-25, and 5/27-23.7(a).

115 ILCS 5/3(c), Ill. Educational Labor Relations Act.

410 ILCS 130/, Compassionate Use of Medical Cannabis Program Act.

~~430 ILCS 66/, Firearm Concealed Carry Act.~~

410 ILCS 705/, Cannabis Tax and Regulation Act.

430 ILCS 66/, Firearm Concealed Carry Act.

720 ILCS 5/11-9.3, 5/21-1, 5/21-1.2, 5/21-3, 5/21-5, 5/21-5.5, 5/21-9, and 5/21-11.

CROSS REF.: 2:200 (Types of School Board Meetings), 2:230 (Public Participation at School Board Meetings and Petitions to the Board), 4:170 (Safety), 5:50 (Drug- and Alcohol-Free Workplace; E-Cigarette, Tobacco, and Cannabis Prohibition), 6:120 (Education of Children with Disabilities), 6:250 (Community Resource Persons and Volunteers), 7:190 (Student Behavior), 7:270 (Administering Medicines to Students), 8:20 (Community Use of School Facilities)

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Consult the board attorney ~~if the district would like to deny an individual admission to board meetings before deleting the above text, especially if the board has put the current text into practice and now plans to narrow it.~~ This issue involves a balancing of a board's interest in the orderly transaction of its public business and the efficiency of its meetings against an individual's: (a) statutory rights to attend meetings and/or comment to and ask questions of the board (105 ILCS 5/10-16 and 5 ILCS 120/2.06(g)), and (b) constitutional freedoms and rights of speech, the press, assembly, and to petition the government (U.S. Constitution, First Amendment and Ill. Constitution, Art. I, §§ 1, 2, 4, and 5).

~~If a violator is a student, the hearing should be held in a closed meeting. 5 ILCS 120/2(c)(9).~~

If, however, the violator is not a student, the hearing must be held in an open session.

<sup>23</sup> The hearing requirement is for the violator's benefit and, consequently, the violator should be able to waive it.